

AUTO SALVAGE AND S. 431, S. 485 AND S.
1232

Y 4. C 73/7:S. HRG. 103-371

Auto Salvage and S. 431, S. 485 and...

HEARING
BEFORE THE
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS
FIRST SESSION

AUGUST 3, 1993

Printed for the use of the Committee on Commerce, Science, and Transportation



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AUTO SALVAGE AND S. 431, S. 485 AND S. 1232

TUESDAY, AUGUST 3, 1993

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 2:40 p.m. in room SR-253, Russell Senate Office Building, Hon. J. James Exon, presiding.

Staff members assigned to this hearing: Claudia A. Simons, staff counsel, and Moses Boyd, senior counsel; and Sherman Joyce, minority staff counsel.

OPENING STATEMENT OF SENATOR EXON

Senator EXON. The committee will please come to order. The chairman apologizes for being 6 minutes late. We had a Democratic caucus today and had a long discussion about a matter, that you would never guess what we were talking about, and that delayed me somewhat.

I certainly am pleased to call this session of the Senate Commerce Committee to order today. Today's hearing will focus on three legislative proposals to provide consumers more information about the used cars that they purchase. The committee will consider S. 431, the Vehicle Damage Disclosure Act, which I introduced on February 24 of this year; S. 485, the Automobile Damage Consumer Protection Act introduced by Senator Pressler on March 3; and S. 1232, the Motor Vehicle Cost Savings Act introduced by Senator Gorton on July 15.

These proposals each have a common thread. They attempt to use the auto title as a way to give consumers information about the history of the car that they may purchase. That information is power; power for the auto buyers to take steps to ensure that they are not ripped off, and power to take steps to ensure that their car is safe.

I believe that these three proposals have a high degree of compatibility. Preliminary staff discussions to produce a consensus approach have been encouraging. These hearings will help the committee to better understand the issues involved in salvage fraud and State lemon laws. I am hopeful that this hearing will help make the job of merging these three proposals possible.

All three bills build on the success of legislation this committee approved in 1985, and that was known as the Motor Vehicle Information and Cost Savings Act. I was proud to be the Senate sponsor of that legislation, which broke the back of underground odometer fraud and the industry that was mushrooming around odometer fraud.

The 1985 odometer fraud act stands as a pillar of consumer legislation which has worked. It has made our streets and wallets safer from the con artists who for years deceived countless American drivers. In 1985 a study estimated that 50 percent of all leased vehicles had odometers which were altered. A similar study released by the Department of Transportation this year estimated that the tamper rate for 1992 was 5 percent. Now, I suggest that that is progress. Americans are also saving billions of dollars. Before the truth in mileage act, American car buyers were losing more than \$3 billion a year to clockers who erased thousands of miles of wear and tear from car odometers.

The secret to the success of the odometer fraud bill lies in the car title. By affixing odometer readings to the car titles, the con men were finally outsmarted. Under the truth in mileage act even the most unsophisticated car buyer can now inspect an auto title and understand any car's odometer history.

As successful as we have been, our job of protecting consumers from auto fraud is not yet done. Other consumer frauds which continue to challenge the fiscal interests and safety of the traveling public remain to be squelched such as salvage fraud and lemon law fraud. With this hearing, I would say that the battle is definitely joined.

Like the odometer fraud bill, the bills before the committee use the auto title to inform the consumers of the history of the used car. When a car is destroyed in a crash, it is generally sent to the junkyard where it is stripped for parts or in some cases rebuilt. Most States require that salvage or rebuilt cars carry a designation on their title so that the consumers are alerted to the condition of the auto that they are purchasing. By so-called branding the title, consumers are put on notice to exercise due care.

Unfortunately, several States do not require any title brands. Fraud artists use these States to wash titles of the salvaged cars and come up with a clean designation. Once a clean title is obtained, rebuilt wrecks are put on used car lots and sold to unsuspecting consumers.

There certainly have been examples of cars cut in half, spot welded together, repainted, and sold with clean titles. One case we have heard of involved a car whose frame was held together with chicken wire. I suspect that is an extreme case, but it is one case that we know about. Most tragic are the cases where drivers have been killed or maimed when their rebuilt wrecks simply failed or fell apart. Only after the tragedy did buyers learn of the salvage history of their vehicle. Experts have estimated that car buyers lose as much as \$4 billion a year to salvage fraud, and millions of drivers unknowingly face increased risk of injury and accident.

S. 431, the Vehicle Damage Disclosure Act, will require States to carry forward any salvage designation from another State and check records which are readily available to State officials. In addition, the Department of Transportation would be required to implement a nationwide uniform title branding procedure. Another key benefit of the salvage fraud legislation is that it would also crack down on title washing used by criminals to fence stolen automobiles.

As Senator Gorton and our panelists will describe in more detail, an additional consumer fraud occurs with cars that have been returned to the dealers as lemons and are sold unrepaired, nothing done to them, to unsuspecting consumers. It is time that public safety and full disclosure be put ahead of greed and deceit.

We have a distinguished and full panel today. All witnesses will, without objection, have their full statements included in the record, and when we get to the witness we will certainly at that time entertain any statements that wish to be made to give us a better understanding as we move forward in this area.

Senator Gorton, I assume you have a statement.

Senator GORTON. I do, but Senator Pressler was ahead of me.

Senator EXON. I see. Senator Pressler, I recognize you for whatever you wish to do.

OPENING STATEMENT OF SENATOR PRESSLER

Senator PRESSLER. I shall be very brief and I shall put most of my statement in the record. I did want to say the purpose of my legislation, S. 485, the Automobile Damage Consumer Protection Act of 1993, is to address one of the most pressing issues currently facing American consumers, automobile title fraud. In my view, it is time for Congress to penalize this crime and protect the consumer.

As you know, Mr. Chairman, many Americans unknowingly buy new or used cars that are rebuilt junk or salvaged vehicles, and you have stated this very eloquently in your opening statement. There is currently no uniform national law requiring disclosure of major automobile damage when the title is transferred. As a result, many consumers own vehicles with fraudulent titles, titles that have been cleaned up to falsely reflect damage history. This is known as automobile title washing.

Title washing costs consumers near \$3 billion each year. And the root of the problem is simple; each State treats damaged vehicles differently. With diverse State laws, car owners or sellers can transfer old titles interstate. The interstate transfer acts as a cleanser of auto titles. It cleans the slate so that the title no longer reflects previous damage. These clean titles put devious car dealers at ease, but put the car buyer at risk.

So, the solution I have proposed: let us require uniform damage disclosure for all States when damage exceeds a certain dollar amount. The approach would be based on dollar damage. Further, let us establish both civil and criminal penalties for those who willfully and knowingly violate the damage disclosure requirements. Those are my recommendations. However, I am also interested in learning more about other legislative proposals.

Let me say that I am very proud that we have here today as a witness Art Nordstrom from Garretson, SD. Mr. Nordstrom is the president of the South Dakota Auto Recyclers Association. Art and his wife Marie were instrumental in developing South Dakota's damage disclosure law. South Dakota was the first State to enact a comprehensive damage disclosure law. Thus Art and Marie are pioneers in the area of vehicle damage disclosure. They are proof that citizens can make a difference. They are to be commended and

they are here today and I look forward to hearing them at the witness table. I am very proud of their presence.

Senator EXON. Senator Pressler, thank you very much. Senator Gorton.

OPENING STATEMENT OF SENATOR GORTON

Senator GORTON. Mr. Chairman, I find it interesting that the definition of an automobile that has been totaled, you know a word that all of us use very frequently, is simply that the cost of repairing it is greater than its fair market value. That obviously leaves an area in which people can make a very real profit by taking over such a totaled car and restoring it, and there is nothing illegitimate about that business.

One of the estimates that we are dealing with here is that some 70 percent of all of the cars that are totaled end up being rebuilt and being resold, and it is exactly at that practice and the requirement of a disclosure of that practice that your bill and some portions of Senator Pressler's bill and a part of my bill are aimed.

We feel, all of us, that under those circumstances the purchaser, the ultimate purchaser ought to know that that automobile has been totaled. Sometimes the repairs are not done very well, sometimes there are safety defects. In any event, the fair market value of that rebuilt car is going to be less than would be the case with a very similar automobile which had not been engaged in such a wreck.

We have got estimates that fraud costs with respect to salvage, going beyond this, may cost consumers as much as \$4 billion a year, and we are attempting to lessen that. The consumer obviously can either walk away from a car when he or she has that kind of notice, or can get it at a lower price.

The independent and additional element of the bill which I have introduced applies the same set of rules to cars which have been returned to the manufacturer as lemons. And I think every State but two—I am afraid this is one that you need to go to work on in South Dakota, because South Dakota is one of the two States, Senator Pressler. Every State but two has lemon laws, but automobiles can be repurchased by the manufacturer under lemon laws and sold off in a different State without the ultimate purchaser knowing that, in fact, they were lemons.

And so my bill sets up pretty much the same rules for the salvage or totaled vehicles as it does for lemon law vehicles. One group has said that lemon law fraud costs three-quarters of a billion dollars a year. And so we are not talking about something which is small, we are not talking about something which is just simply a surface difference, we are talking about automobiles which have serious problems in many cases, and create serious safety challenges.

I remember, Mr. Chairman, when you were a major part in that odometer fraud law. I was on the committee then. I think Senator Pressler was. I believe that both of us were cosponsors of that bill. We have done a great deal on this committee to lessen, particularly, interstate fraud, and this is simply another step forward in the same direction.

We do have a distinguished group of witnesses here today, including one State attorney general. My own State attorney general, my successor, one of my successors as attorney general, has a statement which she would like included in the record as if she were here and delivering it in person. And I also have a statement from the Consumer Federation of America and, Mr. Chairman, I would ask that both those statements be included in the record.

Senator EXON. Both of those statements, without objection, will be included in the record at an appropriate point.

Can I ask you one brief question, Senator? I am very attracted to your lemon proposition and it is something we should consider. Can you briefly tell me—certainly if a car is wrecked, it is pretty well established. How do we identify a lemon?

Senator GORTON. That is a very good question, and the definition that we use here is a technical definition. A lemon law car is a car which has been returned to its manufacturer under the law of one of our States. Your State has such a law, so does mine.

Senator EXON. If it is returned under a law.

Senator GORTON. It is not just something that you think was a junker or you did not like.

Senator EXON. I see.

Senator GORTON. It has to have been returned to the manufacturer under a lemon law to be required to have this disclosure under my bill.

Senator EXON. Thank you. We have a vote on, gentlemen.

I would be glad to recognize you. Do you wish to make a statement, Senator Burns?

OPENING STATEMENT OF SENATOR BURNS

Senator BURNS. I just want to make a short statement. And I appreciate this. You know, when you are not close to this industry—of course, I guess I am. I have got teenagers so I am closer to it than I want to be. But I was reminded, after our staff got to looking up, of the importance of this legislation when they turned up with an example in Montana where a lady was looking at a Datsun 380ZX. She liked the car and came to find out—she called the previous owner and he says my gosh, do not buy the car. It has been run over once by an MDU ladder track, and the second time it was totaled out was when it ran off a bridge into a creek. So, she did not buy the car.

And I would say probably with reputable people, most cars can be rebuilt. There is nothing that cannot be rebuilt in modern days. And if you have reputable people doing it, I think they can probably do a pretty good job. There are some people that can do some work for me that I would be very very comfortable with. But I think what we are striving to do here is to let the people know what happened to the automobile before it was rebuilt or totaled out. But whenever you have got one that has been totaled out twice, that seems pretty glaring to me that maybe something has to be done in the way of notification of the prospective owners of these automobiles.

So, I appreciate you bringing up this situation, and I was surprised to know that 70 percent of the ones totaled out get back into

the chain, and I think we ought to take a look at that. And I thank you, and if you want to go vote I yield the floor.

Senator EXON. Senator Burns, thank you very much.

Let me call the witnesses and then we will take a recess subject to the call of the Chair. The Honorable Richard Blumenthal, the attorney general of the State of Connecticut; Mr. Jim Zarchin, news director, and Mr. Clyde Gray, investigative reporter for WCPO-TV, Cincinnati.

Mr. Gene Van Winkle, a friend of longstanding long back, and one of the most respected used car people in Lincoln, NE. I have known him for a long time. I knew his father, Rip Van Winkle. Not the Rip Van Winkle that you automatically think of, but that was his name. Gene, thank you for coming in. We are very glad to have you.

Mr. Art Nordstrom, president of the South Dakota Recyclers Association, as Senator Pressler has referenced; Mr. Frank McCarthy, executive vice president, National Automobile Dealers Association; and Mr. Paul Cheek, vice president for claims, the GEICO Co., accompanied by Ms. Judith Stone, president and executive director of the Advocates for Highway and Auto Safety.

If you would excuse us, subject to the call of the Chair, we have a vote on and we will return shortly. Please be at ease and we stand in recess subject to the call of the Chair.

[A brief recess was taken.]

Senator MATHEWS [presiding]. Let me call the hearing to order. I did take the opportunity to vote before I came into the room, so we will go ahead and get started. The others will return shortly.

As I understand it, Chairman Exon has introduced the witnesses, the people who will testify. Mr. Clyde Gray, a reporter for WCPO-TV in Cincinnati will be the first witness, and I understand you will introduce a tape. Mr. Gray.

**STATEMENT OF CLYDE GRAY, INVESTIGATIVE REPORTER,
WCPO-TV, CINCINNATI; ACCOMPANIED BY JIM ZARCHIN,
NEWS DIRECTOR, AND MATTHEW WEBER, GENERAL COUN-
SEL, WCPO**

Mr. GRAY. Thank you, Mr. Chairman, and good afternoon members of the subcommittee. My name is Clyde Gray, and I am an investigative reporter with WCPO-TV in Cincinnati, Ohio. I am accompanied today by Jim Zarchin, who is the news director of WCPO-TV, and Matthew Weber, of Baker & Hostetler, WCPO's general counsel.

After my statement, I will show you a short video containing highlights of the I-team's series on rebuilt wrecks. We very much appreciate the invitation to testify today about Federal legislation which could combat the life-threatening risks that we documented in our series.

Imagine paying more than \$13,000 for a car that the salesman tells you is a low-mileage, one-owner car with a shiny paint job only to discover that you cannot steer that car over 50 miles per hour. But that is not all you discover. The car the salesman assured you was almost new is not new after all. In fact, it is not even one car.

Incredibly, your \$13,000 car has actually been spliced together in a backyard body shop from the bodies of two different cars, cars that often are from two different model years. Almost unbelievably, you find your car was totalled in a wreck only a few weeks before you bought it. The car was smashed in both the front and the rear. An insurance company sold the car for salvage, and then it was pieced back together with parts from other wrecked cars before being sold to your car dealer at an auto auction in another State. You paid \$13,000 for a piece of junk, a car that experts now tell you is unsafe to drive.

Mr. Chairman, horror stories like this are all too real, and in most cases the consumers who are victimized have no adequate recourse under State or Federal law.

During our 6-month investigation of this growing problem, the WCPO-TV investigative unit found hundreds of cases where consumers had paid thousands of dollars for what they thought were almost new cars but which in reality were rebuilt wrecks. This is not an isolated problem. It crosses the borders of almost every State. The I-team uncovered a huge national industry that is cheating millions of car consumers every year. One car auction company estimates the cost to consumers from this car fraud to be in the billions of dollars.

In most cases buyers of rebuilt wrecks never know they are purchasing cars that were wrapped around telephone poles or which had plunged down embankments. That is because in many States there is no indication on a car's title to tell the consumer that the car was totalled and then reconstructed.

In these States, a car that is salvaged after a wreck gets a salvage title, but once it is reconstructed, the car gets a brandnew title—known as a clean title—that has no mention whatsoever of its previous condition. To the next buyer of the car, it is as if the accident never happened. The buyer seldom knows the car was totalled, and he ends up paying thousands more than the car is worth. Often, the cars now are structurally unsound, and sometimes they are not even roadworthy.

Because of these loopholes in the title process, the buyer of a rebuilt wreck does not know why the car is having mechanical problems. Car dealers who buy these cars at auto auctions say they also are the victims of rebuilt wrecks. In Ohio and Kentucky alone, we found more than 150,000 rebuilt wrecks were sold in just the last few years.

While the economic cost to individual consumers who get stuck with rebuilt wrecks might be devastating, the solution to the problem is a simple one. Just as passing the National Truth in Mileage Act was necessary to correct the rolling back of car odometers, the problem of rebuilt wrecks calls for a national law requiring that these cars carry titles designating them as "rebuilt."

Once a car is salvaged by an insurance company, the title should always reflect the car's salvage history. Like cattle, the title should be branded for life. This would require uniform wording and a uniform salvage designation from State to State, but this would not be any different or any more difficult than what was done for odometers, and many experts will testify that rebuilt wreck fraud poses an even greater safety risk than odometer rollbacks.

In addition to branding a car's title as rebuilt, we would encourage the subcommittee to consider requiring cars that have been salvaged and then rebuilt to undergo a tough safety inspection before they are reissued a title for the road. Before showing the video, I would like to take the time to commend the Chair, the ranking member, and the sponsors of these three important bills for their attention to this problem, and I thank you for the opportunity to testify here today. Of course, I would be happy to entertain questions from the members of the subcommittee at any time.

Thank you very much.

[The prepared statement of Mr. Gray follows:]

PREPARED STATEMENT OF CLYDE GRAY

Good afternoon, Mr. Chairman and Members of the Subcommittee. My name is Clyde Gray, and I am a reporter with the investigative unit of WCPO-TV in Cincinnati, Ohio. I am accompanied today by James Zarchin, News Director of WCPO-TV, and Matthew Weber of Baker & Hostetler, WCPO's General Counsel. After my statement, I will show you a short video containing highlights of the I-Team's series on rebuilt wrecks. We very much appreciate the invitation to testify today about federal legislation which could combat the life-threatening risks that we documented in our series.

Imagine paying more than \$13,000 for a car that the salesman tells you is a low-mileage, one owner car with a shiny paint job only to discover you can not steer the car over 50 miles per hour. But that is not all you discover. The car the salesman assured you was almost new, is not new after all. In fact, it is not even one car. Incredibly, your \$13,000 car has actually been spliced together in a backyard body shop from the bodies of two different cars—cars that are from two different model years. Almost unbelievably, you find your car was totaled in a wreck only a few weeks before you bought it. The car was smashed in both the front and rear. An insurance company sold the car for salvage, and then it was pieced back together with parts from other wrecked cars before being sold to your car dealer at an auto auction in another state. You paid \$13,000 for a piece of junk—a car that experts now tell you is unsafe to drive.

Mr. Chairman, horror stories like this are all too real and, in most cases, the consumers who are victimized have no adequate recourse under state or federal law. During our six month investigation of this growing problem, the WCPO-TV investigative unit found hundreds of cases where consumers had paid thousands of dollars for what they thought were almost new cars but in reality were rebuilt wrecks.

And this is not an isolated problem. It crosses the borders of almost every state. The I-Team uncovered a huge national industry that is cheating millions of car consumers every year. One car auction company estimates the cost to consumers from this car fraud to be in the billions of dollars.

In most cases, buyers of rebuilt wrecks never know they are purchasing cars that were wrapped around telephone poles or had rolled over embankments. That is because in many states there is no indication on a car's title to tell the consumer that the car was totaled and then reconstructed. In these states, a car that is salvaged after a wreck gets a salvage title, but once it is reconstructed the car gets a brand new title—known as a clean title—that has no mention of its previous condition. To the next buyer of the car, it is as if the accident never happened. The buyer seldom knows the car was totaled and he ends up paying thousands more than the car is worth. Often, the cars now are structurally unsound and sometimes are not even road worthy.

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While the economic cost to individual consumers who get stuck with rebuilt wrecks might be devastating, the solution to the problem is simple.

Just as passing the National Truth in Mileage Act was necessary to correct the rolling back of car odometers, the problem of rebuilt wrecks calls for a national law to require that these cars carry titles designating them as "rebuilt." Once a car is salvaged by an insurance company, the title should always reflect the car's salvage history. Like cattle, the title should be branded for life. This would require uniform

wording and a uniform salvage designation from state to state, but this would not be any different or any more difficult than what was done for odometers. And many experts will testify that rebuilt wreck fraud poses an even greater safety risk than odometer rollbacks.

In addition to branding a car's title as "rebuilt," we would encourage the Subcommittee to consider requiring cars that have been salvaged and then rebuilt to undergo a tough safety inspection before they are re-issued a title for the road.

Before showing the video, I would like to commend the Chairman, the Ranking Member, and the sponsors of these three important bills for their attention to this problem, and I thank you for the opportunity to testify here today. Of course, I would be happy to entertain questions from the Members of the Subcommittee at any time.

Senator MATHEWS. Mr. Gray, thank you. Let me suggest that instead of showing the video at this time, let us go to the next witness and wait until our associates come back, because I am sure they would like to see this video.

Mr. GRAY. Very well, sir.

Senator MATHEWS. Mr. Blumenthal, welcome to the committee. May we hear your statement?

STATEMENT OF HON. RICHARD BLUMENTHAL, ATTORNEY GENERAL, STATE OF CONNECTICUT, TESTIFYING ON BEHALF OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Mr. BLUMENTHAL. Thank you, Senator. In testifying here today—and I very much appreciate this opportunity to do so—I represent not only my office, the Attorney General's Office of the State of Connecticut, but also the National Association of Attorneys General, which passed a resolution just a couple of years ago that I introduced and proposed that would in essence support the proposals contained in Senate bill 1232.

In introducing that bill, Senator Gorton described the problem of fraudulent lemon buyback sales as menacing and deceptive. Certainly that characterization of the problem rings very true to those of us who are responsible for law enforcement at the State level.

To understand the dimensions of the problem, the subcommittee should understand that approximately 50,000 cars nationwide are repurchased or replaced every year as a result of court orders or arbitration. That figure does not include the thousands upon thousands of vehicles that are repurchased and replaced as a result of out-of-court settlements, and very often those vehicles are among the most egregious, the most defective, the worst of the lot, because the dealers and the manufacturers do not even resort to the mandatory process, but voluntarily repurchase or replace vehicles.

For most of us, buying an automobile is among the most important purchases we make, second only to our home, and unfortunately fraud on car consumers is rampant. It is a fact of life in this country today, and one that must be addressed and will be addressed if the Senate and the House of Representatives do adopt these very potentially effective proposals.

In 1982, my State, the State of Connecticut, became the first in the Nation to pass a lemon law establishing specific rights for consumers who purchase new motor vehicles. In 1984, our State established a State-run arbitration system. Since its inception, the Connecticut lemon law arbitration system has resulted in the settlement of about 2,450 disputes.

Over the past 10 years, the Connecticut lemon law has provided our citizens with an effective remedy for redressing problems with their cars, and yet as successful as the lemon law program has been in Connecticut, we have found countless used car buyers who have been victims of fraudulent sales of cars previously bought back by manufacturers because of defects.

It is for that reason that I proposed in 1992 and advocated before our general assembly to require that the title of each lemon law buyback vehicle be branded with the words "manufacturer's buyback." The branding will serve as a permanent notice to future car owners of its history, and the provision will also require that the department of motor vehicles include that designation on any subsequently issued title for that car.

Connecticut thus became one of six or seven—only a handful of States—that currently have those kinds of title stamping or branding. And yet, this is a problem that really cries out for a national solution. Connecticut bears the burden of enforcing that law, while at the same time, its consumers are victims of cars from other States that do not have that kind of title-stamping requirement. This problem really demands uniform standards such as those that are contained in the proposals before you—uniform sticker standards, uniform title certificates, uniform stamping or branding standards, uniform requirements that State motor vehicle departments carry forward on all titles the stamp and brand standards and uniform disclosure statements contained in S. 1232.

Just briefly a couple of key points:

Notification on the car title ensures that second and third subsequent purchasers are aware that the car was a manufacturer's buyback.

Second, title branding does not discourage settlement of lemon law cases. We did a comparison of four States, two with title branding, two without, which demonstrated that there is absolutely no correlation between title branding and settlement rates.

Third, title branding does not increase the number of vehicles that are described as lemons. Rather, it is merely a disclosure statute, as a number of the Senators emphasized in their opening statements.

We urge that two provisions of the law be clarified. First of all, that State officials have the ability to enforce this law much as they do in regard to the odometer-tampering provisions that were adopted and were referred to earlier—that is, Title 15, United States Code, Section 1990A, which allows for State attorneys general to enforce odometer-tampering prohibitions.

Second, we urge that the term "inconsistent" be specifically limited to those instances where compliance with State law would not be possible without directly violating the Federal law. Such a provision would allow for States to provide greater protection, enhanced protection to consumers, even above and beyond the Federal provisions. Clearly, a Federal solution establishing minimal standards for all States is absolutely necessary, and that is why we, as attorneys general, so strongly support S. 1232.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Blumenthal follows:]

PREPARED STATEMENT OF RICHARD BLUMENTHAL

I appreciate the opportunity to speak in support of S. 1232, which would establish federal requirements regarding the disclosure and reporting of salvage vehicles and manufacturer buyback vehicles.

For most of us, buying an automobile is among the most important purchases we make, second only to our home. Unfortunately, fraud on car consumers is rampant.

In 1982, Connecticut became the first state in the nation to pass a Lemon Law, establishing specific rights for consumers who purchase new motor vehicles. In 1984, our state established a state-run arbitration system, a low cost administrative hearing process to mediate and settle disputes between consumers and motor vehicle dealers and manufacturers.

Since its inception, the Connecticut Lemon Law arbitration system has settled 2450 disputes, 68 percent resulting in refunds or replacement vehicles through arbitration awards or predecision settlements in favor of the consumer.

Over the past ten years, the Connecticut Lemon Law has provided our citizens with an effective remedy for redressing problems with new cars.

MANUFACTURERS BUYBACKS: CONNECTICUT'S EXPERIENCE

As successful as the Lemon Law program has been in Connecticut, we've found that many used car buyers have been victims of fraudulent sales of cars previously bought back by manufacturers because of defects.

Nationally, over 50,000 vehicles are repurchased annually as a result of lemon law arbitration or litigation decisions. Many buybacks are sold in Connecticut without the knowledge of the consumer.

In order to be fully protected, Connecticut consumers need passage of a federal law requiring title branding, a law similar to S. 1232.

S. 1232: UNIFORM PROTECTION FOR ALL CONSUMERS

In 1991, I sponsored a resolution, adopted by the National Association of Attorneys General, regarding mandatory disclosures in the resale of Lemon vehicles. The resolution notes that a vehicle's "buyback" history is material in any subsequent sale, that many of these vehicles are sold at auctions and recycled back into the marketplace and that many states do not have adequate legal protection for the unwitting consumer buyers of these vehicles. Accordingly, the unanimous resolution calls for legislation which:

- requires that a vehicle's buyback history be clearly and conspicuously disclosed on the title, in the contract and on the vehicles; and
- requires that state motor vehicle departments carry forward all such buyback brands on all new titles issued.

I am pleased to see that all of these points are included in S. 1232.

Also very important is the proposed bill's definition of "Manufacturers Buyback Vehicles" specifically including vehicles which are repurchased or replaced, not only pursuant to a court order or an arbitration proceeding but also pursuant to pre-trial settlement agreements. The latter is particularly significant since in our experience, this includes the majority of the vehicles which are returned under our Lemon Law.

Statistics from Connecticut's State-operated Lemon Law Arbitration Program show that on average, over a 2 year period (1990-91 the most recent period for which complete figures are available), approximately 200 vehicles were repurchased or replaced by manufacturers annually, through the program. This figure includes not only those cases in which an arbitration decision was issued, but also settlements reached after the arbitration process has been initiated by the consumer.

Connecticut also requires that manufacturers report all defective vehicles which are repurchased or replaced, to the department of motor vehicles. Over the same 2 year period, an average of approximately 700 vehicles were repurchased or replaced according to the DMV records. Thus, substantially more are repurchased through voluntary agreements, thereby avoiding lemon law arbitration.

These repurchased cars are sent to the resale market. They are sold by the dealer or manufacturer at wholesale auction houses—usually in other states—where any evidence that the car was a lemon law buyback is eliminated. The cars are then purchased by dealers who sell them to unsuspecting consumers. Many of these cars still have defects which cause problems for the new owners. If the consumer had knowledge of the vehicle's history, the new owner would not have purchased the lemon law buyback vehicle at the price which he/she paid.

Armed with this information, my office worked in conjunction with the Department of Motor Vehicles and tried to trace some of the cars which the Department of Consumer Protection's Lemon Law Arbitration Program had ordered to be bought

back. Only 1 car out of 50 was traceable in Connecticut. The rest were probably sold out of state without proper and full documentation of the car's history.

Connecticut's law at the time only required that dealers place a disclosure notice on the car. This notice is easily removable especially if a car is sold out of state.

In 1992, I successfully proposed and advocated a Connecticut statute to require that the title of each lemon law buyback vehicle be branded with the words "manufacturer's buyback". The branding will serve as a permanent notice to future car owners of its history. The provision would also require that the Department of Motor Vehicles include such designation on any subsequently issued title for that car.

I suggest some key points:

1. Notification on the car title ensures that second and third subsequent purchasers are aware that the car was a manufacturer's buyback.

2. Title branding does not discourage settlement of lemon law cases. A comparison of four states (two with title branding and two without) demonstrated that there is no correlation between title branding and settlement rates.

3. Title branding does not increase the number of vehicles which are described as lemons; rather it is merely a disclosure statute.

Connecticut's law is a significant victory for consumers. Very importantly, however, so many of these buybacks are immediately sold in other states that Connecticut's consumers are probably purchasing lemons bought back in other states without title branding. As long as some states lack title branding, and currently there are many, there will undoubtedly be lemon law vehicles are repurchased or replaced outside of our formal arbitration programs approximately 500 vehicles per year.

Our experience has been that the vehicles which are the most seriously defective—the vehicles which most clearly fall into the "Lemon" category are the vehicles which the manufacturers are most likely to buy back voluntarily rather than submit to arbitration or legal proceedings. For these reasons, S. 1232 should be clarified so that there is no doubt that vehicles repurchased or replaced through voluntary settlements even those settlements which occur prior to a filing of a lemon law complaint must be included within the scope of this legislation. At the same time, since it is limited to vehicles reacquired due to a defect or nonconformity, it does not apply to so-called goodwill buybacks or vehicles returned after extended test drive programs.

Our experience demonstrates a need for federal legislation. Yet, the states have—and should continue to have a pivotal role in lemon law enforcement. Therefore, I urge a further clarification of section 704 of the proposed bill limiting the pre-emptive effect of the law to those provisions of state disclosure law which are inconsistent with the federal law and regulations. I recommend that the term "inconsistent" be specifically limited to those instances where compliance with state law would not be possible without directly violating the federal law. Such a provision would allow states to provide greater protection for consumers.

Finally, I would urge the committee's consideration of a provision allowing for state attorney general enforcement of violations of this act. This provision would be similar to 15 USC 1990a, which allows for state attorney general enforcement of the odometer tampering provisions of the Motor Vehicle Information and Cost Savings Act.

Clearly, a federal solution, establishing minimum standards for all states is absolutely necessary. That is why I strongly support S. 1232.

BACKGROUND STATEMENT

In a recent letter to state Attorneys General, the Center for Auto Safety reported that 50,000 vehicles are repurchased annually as a result of lemon law arbitration or litigation. These figures do not include the vehicles which are returned to the automobile manufacturers through voluntary settlements in order to avoid potential arbitration or litigation. There have been numerous reported instances where these vehicles are then resold without disclosure to consumers.

Not all states have specific requirements regarding disclosure of a vehicle's lemon history and even fewer require that the vehicle's title be stamped or branded to indicate that it is a lemon law buyback. In those states where disclosures are required on the vehicle or the title, lemon vehicles can easily be transported to another state which has no such requirements and a new title can be obtained without the lemon disclosure. Even in the states where disclosure is required, there is currently no tracking system which could be used to determine if vehicles coming in from other states are lemon law buybacks.

For these reasons, it is believed that legislation which would establish uniform procedures among the states regarding disclosures, title branding and reporting of lemon Law buybacks would be the most effective way to address this problem. The attached resolution supports mandatory disclosures in the resale of lemon vehicles in order that consumers will become more fully informed about the history of the used cars they purchase.

PROPOSED RESOLUTION—MANDATORY DISCLOSURES IN THE RESALE OF LEMON VEHICLES

Whereas, at least 50,000 vehicles with serious safety defects or non-conformities are repurchased by manufacturers or dealers annually through arbitration, litigation or through settlements as a result of the various state lemon laws; and

Whereas, with an average purchase price of \$15,000 per automobile, lemon law buybacks represent a potential \$750 million loss; and

Whereas, many of those vehicles are subsequently resold at auction or by used car dealers and thus recycled back into the marketplace, back onto the streets, and back into repair shops; and

Whereas, many states do not have adequate legal protection for the unwitting consumer purchasers of lemon law "buyback" vehicles; and

Whereas, the fact that the vehicle is a manufacturer or dealer "buyback" vehicle is material to any subsequent sale of the vehicle;

Now, therefore, be it resolved that the National Association of Attorneys General:

1. Encourages the adoption of legislation or regulations in each state that:
 - a) provides for disclosure of the fact that a vehicle has been repurchased by a manufacturer or dealer for the protection of consumers;
 - b) contains a disclosure provision which requires that notice be placed clearly and conspicuously on the vehicle, on the contract and on the title;
 - c) requires that pertinent information on buyback vehicles be reported to and recorded by state motor vehicle departments;
 - d) requires state motor vehicle departments to carry forward all previous lemon law title brands or stamps on all new titles issued; and
 - e) provides for recovery of actual damages, exemplary damages and attorneys' fees, where appropriate, by consumers injured by violation of the statute.
- 2) Supports participation in a multistate database network which would allow the interstate tracing of vehicles with branded titles.
- 3) Authorizes its Executive Director and General Counsel to make these views known to all interested parties.

Senator MATHEWS. Thank you, Mr. Blumenthal. I believe our next witness is Mr. Gene Van Winkle. Mr. Van Winkle, welcome.

**STATEMENT OF GENE VAN WINKLE, GENERAL MANAGER,
OMAHA AUTO AUCTION, ON BEHALF OF ANGLO AMERICAN
AUTO AUCTIONS**

Mr. VAN WINKLE. Mr. Chairman, members of the committee, my name is Gene Van Winkle. I am general manager of Omaha Auto Auction, Omaha, NE.

I came to Washington to testify in favor of S. 431, the Vehicle Damage Disclosure Act. The legislation would fight salvage fraud, a scam that hurts the automobile industry and endangers everybody on the highways.

When consumers get hurt financially or physically, it damages our company's reputation. That hurts our 200 employees in Omaha. More than 7,000 new and used car dealers regularly buy vehicles at our company. We are the victims. I speak not only for Omaha Auto Auction but for 29 sister auctions that make up Anglo American Auto Auctions, Inc.

We serve every region of the United States. Our trade group, the National Auto Auction Association, also supports S. 431. Together, we include over 265 auctions in every State in the Union and sell more than 14 million vehicles each year.

Mr. Chairman, this problem exists because the State titling laws make it easy to buy a wrecked vehicle, fix it up, and hide the vehicle's history from a prospective buyer. The process is a little complicated, but I will try to explain briefly why we have the problem and why S. 431 will cure it.

First, the States have 51 different systems for dealing with wrecked cars. Depending on where the car gets wrecked, State records may show it salvaged, rebuilt, reconstructed, or junk, or the State may not record anywhere on the title that the vehicle was demolished or later rebuilt. It is a Tower of Babel for our industry, because we handle vehicles from every State. A car's title document, often the only warning a consumer may get, may simply say "S" or "R," without any explanation.

In Nebraska, we are surrounded by States that issue titles for rebuilt wrecks without mentioning the previous damage. This problem is aggravated by the fact that the States usually do not recognize and carry forward salvage brands from other States when they title a car. Only 12 States will recognize and repeat all title brands from other States. Nebraska, Missouri, and Nevada have strong laws, but our proconsumer States still cannot protect us.

The safety inspection program cannot be fully effective because salvage-related information can be washed off so easily elsewhere. For example, the CBS program 60 Minutes reported earlier this year about a youngster in Missouri who was nearly killed in a car his parents bought for him. Texas issued a salvage title for that vehicle. Kansas then issued a clean title. The car was sold in Missouri with a clean title, so the parents had no idea they were paying too much for the car, or that their son's life might be at risk.

Nebraska is not only surrounded by States that do not brand titles, but also by States where it is easy to wash such a warning off a car title. All a rebuilder has to do is obtain a new title from one of them for a nominal fee.

Auto auctions are victims in two ways. First, fear of rebuilt wrecks undermines the foundation of our business. Second, instead of preventing salvage fraud, everybody just races down to the courthouse. Disappointed buyers sue the dealers, the dealer sues the auction, so we are all just chasing our tails. Victims sue other victims while the guy who rebuilt the car and washed the title goes straight to the bank.

Our company uses computers to build our own protection against handling undisclosed salvage, but our system is still imperfect. Despite hundreds of thousands of dollars, the only way to fully protect us and the consumer is to make sure rebuilt wrecks get branded and stay branded. State motor vehicle titling officials know this problem cannot be dealt with on a State-by-State basis. They know that remedial costs are minimal, and they support the passage of a Federal mandate requiring that title brands be carried forward.

Just 2 weeks ago a Presidential task force including the State titling officials from all over the country voted to support a carryforward of all existing title brands. S. 431 is pretty simple. It requires a State to carry forward salvage brands on car titles. It tells the Department of Transportation to establish nationally uniform procedures as to when the car gets branded after they have been wrecked.

It will take time to get new procedures implemented across the country, but Senator Exxon, you did not let that stop you when you tackled the related problem of odometer fraud. That problem is largely fixed, thanks to you and the Truth in Mileage Act. We Nebraskans are proud of your leadership on this committee on an important issue for so many Nebraskans and consumers across the United States.

I would like to submit some other additional materials for the record concerning S. 431. I would also be happy to answer any questions about Senator Gorton's bill, 1232, and Senator Pressler's bill, S. 485, both of which have some merit.

[The additional materials for the record may be found in the committee's files.]

Senator MATHEWS. Thank you, Mr. Van Winkle.

Let me confer with my associates for just one moment here.

While you were voting, we heard three of witnesses. There are three additional witnesses. And Mr. Gray has a tape that he wants to show. Is it your will that we go ahead and hear them?

Senator GORTON. Yes, let us go ahead and hear them first.

Senator MATHEWS. OK, we will hear them all. Very good.

Mr. Nordstrom, welcome to the committee.

Senator PRESSLER. Let me just interject that I am very proud of Mr. Nordstrom's work in the South Dakota State Legislature on a number of issues. He is a citizen from the grassroots truly.

Senator MATHEWS. Thank you, Senator Pressler. Mr. Nordstrom.

STATEMENT OF ART NORDSTROM, PRESIDENT, SOUTH DAKOTA RECYCLERS ASSOCIATION

Mr. NORDSTROM. If I seem a little nervous, for me, this is a totally new experience. I have never been in a plane in my life, and I have never been to Washington. I have been a homegrown South Dakotan, and I am lost. [Laughter.]

Senator PRESSLER. It is his first airplane ride today, too, so we are proud of him.

Mr. NORDSTROM. It was not bad, either.

One thing I would like to say is that South Dakota did pass a lemon law this year in the session.

Thank you, Mr. Chairman, for holding this hearing today and for providing the opportunity for me to testify. I am Art Nordstrom. I am president of the South Dakota Auto Recyclers Association. My wife and I own and operate Nordstrom's Auto Recycling in rural eastern South Dakota. We built the business from scratch, and we now feed 19 families.

We sell recycled parts and vehicles that can be repaired. We do not rebuild vehicles. I want you all to understand that when we get into this testimony. We do not repair vehicles.

We deal with a lot of insurance companies from across the United States and we see many different types of titles. We have had the South Dakota Damage Disclosure Law since 1988, and it is working great. A lot of the things that you guys have been talking about here, we have already got a handle on it in South Dakota, and with later questions I will try and explain it to you.

We believe the consumer has the right to know. Our law protects the person selling a damaged or repaired vehicle because he is dis-

closing the damage at the time of sale or trade. Before our law, we had salvage titles and percent to determine the salvage. It was not protecting the consumer. We kept hearing stories of consumers getting surprised by finding out the new or used car they had just bought had been wrecked.

Marilyn Volz, my sister-in-law from Anchorage, bought a newer used Suburban 4x4 and thought there was something that was not quite right with it. They came out of a restaurant one day and saw a young man looking at it, and he told them it was his father's, and it had been in a major wreck and had been repaired and he sold it. Marilyn bought it and was never told anything about the damage.

I had my own experience with my own never-damaged 1985 Pontiac. I traded it in on a new 1987 model. My trade sat on the lot for two months, and then it was gone. A week later a man called my wife, asked her all about the car and how we like it because he had bought it. She told him we loved it, but it was a four-door and we wanted a two-door. He asked her about the paint overspray under the front end. She told him we had never had an accident and to check with the dealer.

Come to find out, a lady had tried out our car and, in pulling into the lot, hit the gas instead of the brake, hit a parked car, pushed it into a Jeep. My car and the Jeep were repaired. The dealer sold it to the man and never told him. I suppose to this day the guy thinks that my wife lied to him.

That is when I realized there had to be a better way. These instances are an example of how salvage and percent laws will miss major damage. Often an insurance company will have severely damaged vehicles repaired for their customers because they owe too much to total it and it would miss being branded. Other types are uninsured vehicles, self-insured vehicles, rent-a-cars, leased vehicles, law enforcement autos, new cars with just an M.S.O., demos and bank repos, and there are others.

That is why I thought up the idea of a disclosure at time of title transfer. It is a simple system to require a circle of a car picture and a yes and no to reveal damage, repaired or not. It is required on all vehicles 9 years or newer, just like the Truth and Mileage Act. Once a vehicle has had damage or has come from another State with damage, a disclosure would be on the face and stay on the face of the title forever.

There is a penalty for anyone that intentionally falsifies a disclosure to a dealer or a consumer. I have enclosed a copy of the title with my testimony, and I have another one here if anybody would like to look at it.

For a fee of \$5, anyone can receive a complete title history from our department of motor vehicles. Any previous brands are carried forward on the title to prevent title washing in South Dakota. Right now, there are a lot of flood cars in the Midwest. We have just handled a lot right in our own area. We sold quite a few back out to be repaired.

Ours are all marked with a disclosure, but in other States, if it does not go through an insurance company, it can be covered up and the consumer frauded. This law will also give law enforcement a new tool to help stop the trafficking in stolen parts. If a certain

type of vehicle is reported stolen, the law could use the disclosure to locate other vehicles of the same kind that had damaged marked at the time of title transfer. This would allow them to trace back where it was repaired and where the parts came from. Legitimate businesses would have receipts.

Thieves will never know when a disclosure might pop up on a title transfer, whether this year or 9 years from now. And that is also one of the reasons we have the low dollar amount. If you get too high, it will not work.

I realize that this is a different concept, but it will work, and I want to read a statement from Deb Hillmer, our director of motor vehicles.

Deb said: "A salvage branding law"—this is in the Congressional Record, by the way, too—"A salvage branding law was in effect which put our office in the position of determining whether or not a vehicle met the definition of salvage. One of the problems we experienced with our previous salvage law was the misconception of a total loss. An insurance company may total a vehicle for reasons other than damage to the vehicle. Because of this, it was very difficult to determine the actual damage to the vehicle, and not having a staff with expertise in automobile repair, we were at a real disadvantage. With our present damage disclosure law, total loss is not an issue."

Since the intent of all salvage laws is to protect the consumer, our present method of disclosing damage is a very effective means of informing the public of a vehicle's condition. In addition, it is extremely easy to administer in that it does not require that the State make any type of determination as to the condition of the vehicle, but still provides the consumer with vital information.

If more States would adopt this legislation, we may eliminate title washing, while providing the consumer with relevant information about the vehicle.

I thank you for this time. And I also have a videotape that we made, which if I cannot explain it today, it is free to anybody that wants it. Senator Pressler will have them over there in the office. It is 22 questions which help answer a lot of the questions that get brought up on the disclosure. It is a new concept, and I know there are a lot of you saying \$1,000 or \$2,000 and all vehicles. Well, there is a reason for all of it, and we have had it since 1988 and it works.

Thank you, Mr. Chairman.

[The information referred to follows:]

CERTIFICATE OF TITLE

VEHICLE

TITLE NO.	TITLE ISSUE DATE	TYPE	PREVIOUS STATE	TAX CODE/SANT.	TITLE COUNTY
10750170	07/27/93	F	NE	*17	01
			SALVAGE		

MAIL TO:

NORDSTROMS D619.
RR 2 BOX 192
GARRETSON SD 57030-9340

YEAR	MAKE	MODEL	BODY	VEHICLE IDENTIFICATION NUMBER
89	FORD	F250	PU4	1FTEF26NOKKA25734

WEIGHT/CC	ODOMETER
4,338	50,361 ACTUAL

DIVISION OF MOTOR VEHICLE RECORDS INDICATE THIS MOTOR VEHICLE HAS
BEEN DAMAGED AT ONE TIME IN EXCESS OF TWO THOUSAND DOLLARS

OWNER(S): NORDSTROMS D619

OWNER ADDRESS: RR 2 BOX 192
GARRETSON SD 57030-9340

FIRST LIENHOLDER:

NOTED BY	REGISTER OF DEEDS	(CO.)	(DATE)	RELEASED BY	REGISTER OF DEEDS	(CO.)	(DATE)
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SECOND LIENHOLDER:

NOTED BY	REGISTER OF DEEDS	(CO.)	(DATE)	RELEASED BY	REGISTER OF DEEDS	(CO.)	(DATE)
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THE DEPARTMENT OF REVENUE, UNDER SOUTH DAKOTA LAW, CERTIFIES THAT THE PERSON(S) NAMED HERON IS DULY REGISTERED IN THIS OFFICE AS OWNER(S) OF THE DESCRIBED PROPERTY SUBJECT TO ANY LIENS AND ENCUMBRANCES HERIN SET FORTH. SOUTH DAKOTA LAW REQUIRES DISCLOSURE OF DAMAGE ON MOTOR VEHICLES. DAMAGE INFORMATION IS AVAILABLE UPON WRITTEN REQUEST SENT TO THE DEPARTMENT OF REVENUE OR DIVISION OF MOTOR VEHICLES, 118 WEST CAPITOL AVE., PIERRE, SD 57501-2080.

DOIC-MV-100(4/02) HVMAMOR 930727 082810 CONTROL NO. 3830423

ANY ALTERATIONS OR ERASURES VOID THIS DOCUMENT

SECRETARY
DEPARTMENT OF REVENUE

PURCHASER MUST APPLY FOR NEW CERTIFICATE OF TITLE FROM COUNTY TREASURER WITHIN 30 DAYS OF PURCHASE OR BE SUBJECT TO PENALTY.

FEDERAL AND STATE LAWS REQUIRE THAT YOU DISCLOSE A MOTOR VEHICLE'S MILEAGE ON EACH TRANSFER OF OWNERSHIP. YOUR FAILURE TO COMPLETE THIS DISCLOSURE, OR MAKING A FALSE DISCLOSURE MAY RESULT IN FINES AND/OR IMPRISONMENT. COMPLETE THE CORRESPONDING DISCLOSURE STATEMENT IF A VEHICLE BEING TRANSFERRED IS LESS THAN TEN (10) YEARS OLD AND WEIGHS LESS THAN 16,000 POUNDS.

DISCLOSURE (FOR MOTOR VEHICLES ONLY)

ODOMETER READING IS: 50361 WHICH IS ACTUAL VEHICLE MILEAGE UNLESS ONE OF THE FOLLOWING STATEMENTS IS CHECKED.

STATE MILEAGE: EXCEEDS ODOMETER'S MECHANICAL LIMITS OR IS NOT ACTUAL MILEAGE - WARNING - ODOMETER DISCREPANCY

ANSWER 1. THE VEHICLE SUSTAINED DAMAGE IN EXCESS OF \$2,000.00 IN ANY SINGLE OCCURRENCE WHILE I HAVE OWNED THE DESCRIBED VEHICLE. YES NO
 BOTH QUESTIONS 2. AT THE TIME I ACQUIRED THIS VEHICLE, THE VEHICLE HAD UNPAID REPAIRS IN EXCESS OF \$2,000.00. YES NO



(CIRCLE DAMAGE ON DIAGRAM ABOVE)

IF YOU CHECKED "YES" TO EITHER QUESTION, THEN CHECK THE GENERAL CAUSE(S) OF VEHICLE DAMAGE ON THE FOLLOWING LINES: CHECK ALL CAUSES' OF VEHICLE DAMAGE WHICH APPLY: COLLISION FIRE VANDALISM SUBMERSION IN WATER WEATHER OTHER DAMAGES (LIST) ROLLED

AS SELLER(S), I/WE CERTIFY UNDER THE PENALTY OF THE SOUTH DAKOTA LAW, THAT THE SIGNATURE(S) BELOW RELEASES INTEREST IN THIS PROPERTY AND CERTIFIES TO THE TRUTH AND ACCURACY OF ANY VEHICLE MILEAGE AND DAMAGE DISCLOSURE INFORMATION ENTERED ABOVE.

PRINTED NAME OF SELLER(S)/COMPANY NAME (DATE OF SALE) PRINTED NAME OF PURCHASER(S)/COMPANY NAME

SIGNATURE OF SELLER(S) OR AUTHORIZED AGENT

SELLER'S ADDRESS PURCHASER'S ADDRESS

(CITY) (STATE) (ZIP CODE) (CITY) (STATE) (ZIP CODE)

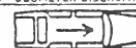
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ADDRESS <input type="checkbox"/>	

DISCLOSURE (FOR MOTOR VEHICLES ONLY)

ODOMETER READING IS: 50361 WHICH IS ACTUAL VEHICLE MILEAGE UNLESS ONE OF THE FOLLOWING STATEMENTS IS CHECKED.

STATE MILEAGE: EXCEEDS ODOMETER'S MECHANICAL LIMITS OR IS NOT ACTUAL MILEAGE - WARNING - ODOMETER DISCREPANCY

ANSWER 1. THE VEHICLE SUSTAINED DAMAGE IN EXCESS OF \$2,000.00 IN ANY SINGLE OCCURRENCE WHILE I HAVE OWNED THE DESCRIBED VEHICLE. YES NO
 BOTH QUESTIONS 2. AT THE TIME I ACQUIRED THIS VEHICLE, THE VEHICLE HAD UNPAID REPAIRS IN EXCESS OF \$2,000.00. YES NO



(CIRCLE DAMAGE ON DIAGRAM ABOVE)

IF YOU CHECKED "YES" TO EITHER QUESTION, THEN CHECK THE GENERAL CAUSE(S) OF VEHICLE DAMAGE ON THE FOLLOWING LINES: CHECK ALL CAUSES' OF VEHICLE DAMAGE WHICH APPLY: COLLISION FIRE VANDALISM SUBMERSION IN WATER WEATHER OTHER DAMAGES (LIST) .

AS SELLER(S), I/WE CERTIFY UNDER THE PENALTY OF THE SOUTH DAKOTA LAW, THAT THE SIGNATURE(S) BELOW RELEASES INTEREST IN THIS PROPERTY AND CERTIFIES TO THE TRUTH AND ACCURACY OF ANY VEHICLE MILEAGE AND DAMAGE DISCLOSURE INFORMATION ENTERED ABOVE.

PRINTED NAME OF DEALERSHIP (SELLER) (DATE OF SALE) PRINTED NAME OF PURCHASER(S)/COMPANY NAME

SIGNATURE OF DEALER/AGENT (DEALER #) SIGNATURE OF PURCHASER(S) OR AUTHORIZED AGENT

DEALER'S ADDRESS PURCHASER'S ADDRESS

(CITY) (STATE) (ZIP CODE) (CITY) (STATE) (ZIP CODE)

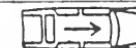
LIENHOLDER NAME <input type="checkbox"/>	LIENHOLDER CODE: <input type="checkbox"/>
ADDRESS <input type="checkbox"/>	

DISCLOSURE (FOR MOTOR VEHICLES ONLY)

ODOMETER READING IS: 50361 WHICH IS ACTUAL VEHICLE MILEAGE UNLESS ONE OF THE FOLLOWING STATEMENTS IS CHECKED.

STATE MILEAGE: EXCEEDS ODOMETER'S MECHANICAL LIMITS OR IS NOT ACTUAL MILEAGE - WARNING - ODOMETER DISCREPANCY

ANSWER 1. THE VEHICLE SUSTAINED DAMAGE IN EXCESS OF \$2,000.00 IN ANY SINGLE OCCURRENCE WHILE I HAVE OWNED THE DESCRIBED VEHICLE. YES NO
 BOTH QUESTIONS 2. AT THE TIME I ACQUIRED THIS VEHICLE, THE VEHICLE HAD UNPAID REPAIRS IN EXCESS OF \$2,000.00. YES NO



(CIRCLE DAMAGE ON DIAGRAM ABOVE)

IF YOU CHECKED "YES" TO EITHER QUESTION, THEN CHECK THE GENERAL CAUSE(S) OF VEHICLE DAMAGE ON THE FOLLOWING LINES: CHECK ALL CAUSES' OF VEHICLE DAMAGE WHICH APPLY: COLLISION FIRE VANDALISM SUBMERSION IN WATER WEATHER OTHER DAMAGES (LIST) .

AS SELLER(S), I/WE CERTIFY UNDER THE PENALTY OF THE SOUTH DAKOTA LAW, THAT THE SIGNATURE(S) BELOW RELEASES INTEREST IN THIS PROPERTY AND CERTIFIES TO THE TRUTH AND ACCURACY OF ANY VEHICLE MILEAGE AND DAMAGE DISCLOSURE INFORMATION ENTERED ABOVE.

PRINTED NAME OF DEALERSHIP (SELLER) (DATE OF SALE) PRINTED NAME OF PURCHASER(S)/COMPANY NAME

SIGNATURE OF DEALER/AGENT (DEALER #) SIGNATURE OF PURCHASER(S) OR AUTHORIZED AGENT

DEALER'S ADDRESS PURCHASER'S ADDRESS

(CITY) (STATE) (ZIP CODE) (CITY) (STATE) (ZIP CODE)

LIENHOLDER NAME <input type="checkbox"/>	LIENHOLDER CODE: <input type="checkbox"/>
ADDRESS <input type="checkbox"/> SCANDIA	

Senator MATHEWS. Thank you, Mr. Nordstrom. Thank you very much. Mr. McCarthy.

STATEMENT OF FRANK McCARTHY, EXECUTIVE VICE PRESIDENT, NATIONAL AUTOMOBILE DEALERS ASSOCIATION

Mr. McCARTHY. Thank you, Mr. Chairman.

My name is Frank McCarthy, and I am the executive vice president of the National Automobile Dealers Association.

NADA is the national trade association representing over 19,000 independent franchise new car and truck dealers, and they hold over 35,000 separate franchises. The primary business of our members is the retail sale and service of new and used vehicles throughout the United States, both foreign and domestically produced.

On behalf of our membership, I would like to thank you for the opportunity to testify here on S. 431 and similar bills. I heard the word odometer several times here. I would like to add that we are very proud at NADA that we initiated the draft odometer bill with this committee. It came back several times to strengthen the provisions. And it does seem to be working.

This type of legislation, we think, falls in the same category. A lot can be done to protect consumers and, basically, we are here to support that.

We commend Senator Exxon and the subcommittee for addressing the matter of salvage and rebuilt vehicles. The majority of States presently have some indication on their titles that a vehicle has been salvaged or rebuilt. However, as vehicles are retitled in other States, which we have heard before, it is fairly easy to wash out any notification that a car has been rebuilt or salvaged.

This eliminates valuable information to both dealers and ultimately to consumers that would greatly assist these people in evaluating the safety and also the value of the vehicle.

Congress recognized this problem and established a task force in the Anti Car Theft Act of 1992 to examine the matter and to report back to Congress with recommendations. We also are proud that one of our very good dealers, Ed Biagas, is serving on this committee and attended the first meeting. The task force is directed to consider the advisability of requiring uniform title brands on all certificates of title, indicating that a given vehicle is salvaged, rebuilt or reconstructed.

We applaud Congress for establishing this task force and we think that they will accomplish their task, this coming year. We believe that its recommendations will serve as the basis for legislation which will guarantee uniformity among the States in branding its titles. However, it is reasonable to assume that if such requirements are enacted into law, it will not become effective for several years, or at least it is going to take some extended period of time.

There are things that can be done presently to provide potential used car buyers with information regarding the history of vehicles which would be extremely important in evaluating that vehicle. These small steps could be taken without encroaching upon the duties and responsibilities of the task force, but it could be a stopgap measure that would really save a lot of people from buying unsafe products and hopefully save a lot of lives.

S. 431 identifies the steps which should be taken immediately. It established very simple and nonburdensome requirements on State departments of motor vehicles, which would provide dealers and consumers valuable information. As we understand the bill, it would simply require that all States indicate on their titles whether the vehicle was previously issued a title with a salvage, junk or

rebuilt brand, and to designate which State first issued such a title.

As far as what the nomenclature will be, as I understand it, we would leave that up to the task force and that will be handled later.

We believe this can be accomplished by using no more than one or two lines of space on a certificate of title. A short question on the title such as, "Has the vehicle previously been branded?" Yes or no. "What was the State in which that vehicle was branded?" This would seem to fill the requirements and objectives of this bill.

With this information on the title, a consumer can walk away from the vehicle or engage in additional inquiries to determine the extent of the damage if one is so labelled.

Under the dealer point of view, this information is also extremely valuable. When dealers purchase for their used car inventories—and used cars are a big part of a new car dealer's business—they often do not have the time or ability to conduct a detailed inspection of each vehicle. The title information required by the Exxon bill would be very helpful to the dealer in determining the value and commercial acceptance of the vehicle and, in turn, protect the consumer.

Once, again, this can all be accomplished without any appreciable burden to the States. This bill would not supersede the work of the task force. It does not attempt to define the types of vehicles that should be branded, nor does it attempt to specify the terms which States would be required to use in branding their titles. These matters are left to the task force for their deliberation.

This bill merely requires that States indicate on their titles whether another State has previously branded the vehicle. We think this is very clear and straightforward and very necessary.

The next paragraph in our testimony is in the record. It is just a technical matter that we wanted to bring to the attention of the committee, and we think that can be handled that way.

We would like to point to the last paragraph of our statement. I will summarize it. We believe that the passage of this legislation might be jeopardized by delegating to the Secretary of Transportation the authority to enact into law by rule the task force's recommendations. The reason I bring this up is that there is a similar bill on the House side. We have talked to several people over there, and they have expressed some concern about that.

So, we hope you would coordinate that and possibly still leave this in Congress' hands, and not delegate all this authority to the Secretary of Transportation.

Again, we appreciate the opportunity to testify on S. 431 and related bills, and we will assist the committee and subcommittee in any way on this matter.

Thank you.

[The prepared statement of Mr. McCarthy follows:]

PREPARED STATEMENT OF FRANK McCARTHY

My name is Frank McCarthy and I am Executive Vice President of the National Automobile Dealers Association (NADA). NADA is a national trade association representing over 19,000 franchised new car and truck dealers holding more than 35,000 separate franchises. The primary business of NADA members is the retail sale of new and used motor vehicles, both foreign and domestically produced. On

behalf of our membership, I would like to thank you for the opportunity to testify today on S. 431.

We commend Senator Exxon and the Subcommittee for addressing the matter of salvage and rebuilt vehicles. The majority of states presently have some indication on their titles that a vehicle has been salvaged or rebuilt. However, as vehicles are retitled in other states which do not "carry forward" title brands, this information is often dropped from the title. This eliminates valuable information to both dealers and ultimate consumers that would greatly assist in evaluating the safety and value of an automobile.

Congress recognized this problem and established a task force in the Anti Car Theft Act of 1992 to examine the matter and report to Congress with recommendations. The task force is directed to consider the advisability of requiring uniform title brands on all certificates of title indicating that a given vehicle was salvaged, rebuilt, or reconstructed. We applaud Congress for establishing this task force. We believe that its recommendations will serve as the basis for legislation which will guarantee uniformity among the states in branding its titles. However, it is reasonable to assume that if such requirements are enacted into law, it will not become effective for several years. There are things that can be done presently to provide potential used car buyers with information regarding the history of vehicles which would be extremely important in evaluating the vehicle. These small steps could be taken without encroaching upon the duties and responsibilities of the task force.

S. 431 identifies the steps which should be taken immediately. It establishes very simple and nonburdensome requirements on state Departments of Motor Vehicles which would provide dealers and consumers valuable information. As we understand the bill, it would simply require that all states indicate on their titles whether the vehicle was previously issued a title with a salvage, junk, or rebuilt brand and to designate which state first issued such a title. We believe this can be accomplished by using no more than one or two lines of space on a certificate of title. A short question on the title such as "Has this vehicle previously been branded? Yes or No. Branding State ____.", would seem to fulfill the requirements and objectives of the bill.

With this information a consumer can walk away from the vehicle or engage in additional inquiries to determine the extent of damage the vehicle once sustained.

From the dealer point of view this information is also extremely valuable. When dealers purchase for their used car inventories, they often do not have the time or ability to conduct a detailed inspection of each vehicle. The title information required by the Exxon bill would be very helpful to the dealer in determining the value and commercial acceptance of the vehicle.

Once again, this can all be accomplished without any appreciable burden to the states. The bill would not supersede the work of the task force. It does not attempt to define the types of vehicles that should be branded nor does it attempt to specify the terms which states would be required to use in "branding" their titles. Those matters are left to the task force deliberation. This bill merely requires that states indicate on their titles whether another state has previously branded the vehicle.

While we fully support the basic requirements of the bill, we would like to make several observations. First, we believe that lines 17 and 18 on Page 2 were added inadvertently. The section of the code amended by these two lines relates to odometer disclosure. The amendment would require that all odometer disclosures be made "on the title". Congress specifically addressed this question several years ago, and I do not believe it is the intent of Senator Exxon or the Committee to revisit that issue.

Second, we believe that passage of this much needed legislation could be jeopardized by delegating to the Secretary of Transportation the authority to enact into law, by rule, the task force recommendations. The Anti Car Theft Act requires the task force to report its recommendations to the President, the Congress, and the chief executive officer of each state. We fear that this will meet with a good deal of resistance by many members of Congress who believe that Congress should consider action on the recommendations, not the Secretary.

Again, we appreciate the opportunity to testify on S. 431, and will assist the Subcommittee in any way on this matter.

Senator MATHEWS. Thank you, Mr. McCarthy.

Our last witness is Mr. Paul Cheek. Mr. Cheek.

**STATEMENT OF PAUL CHEEK, VICE PRESIDENT FOR CLAIMS,
GEICO; ACCCOMPANIED BY JUDITH STONE, PRESIDENT AND
EXECUTIVE DIRECTOR, ADVOCATES FOR HIGHWAY AND
AUTO SAFETY**

Mr. CHEEK. Thank you, Mr. Chairman.

I am Paul Cheek, vice president of claims for GEICO, and I am accompanied today by Judith Lee Stone, who is president of Advocates for Highway and Auto Safety. GEICO is proud to serve on Advocates' board of directors.

On behalf of GEICO and Advocates, I thank you for conducting this hearing, and allowing us to testify on the important issue of State motor vehicle titling practices. I will summarize my remarks, and ask that my entire statement be inserted in the record.

Senator MATHEWS. Without objection, it will be included.

Mr. CHEEK. Thank you.

Advocates is pleased to again be working with this committee and its members. And we commend Senators Exon, Gorton, and Pressler for introducing legislation on the problem of motor vehicle titling to fill the gaps that exist in dealing with junked, salvaged, or rebuilt vehicles.

The Coalition Against Insurance Fraud estimates that auto insurance fraud accounts for approximately 10 percent of the premiums, or more than \$8 billion every year. According to the U.S. Department of Transportation, just the practice of selling rebuilt cars and passing them off merely as used cars costs consumers as much as \$4 billion annually. This problem is complex and a costly one for consumers. The bills introduced on this topic all offer elements that will help address title fraud and protect consumers.

Advocates has identified several key factors that we believe should be included in title reform legislation. Advocates will be happy to work with the committee to further refine these proposals.

Advocates strongly supports a universal certificate of title among the States, with certain minimum security standards to minimize the opportunities for fraud. With a universal title, every motor vehicle title would carry the same information in approximately the same place on the document. This, we believe, is critical to the success of any antifraud program as it is virtually impossible for all law enforcement officers, department of motor vehicle clerks, judicial officials, insurers, used car dealers, auctioneers, and consumers to be familiar with 50 different title designs.

The committee should direct the Department of Transportation to move as quickly as possible in developing regulations that provide comprehensive vehicle information in a clear format on the title. The Motor Vehicle Titling Registration and Salvage Advisory Committee created by the Anti Car Theft Act of 1992 is currently addressing some of these issues, and their recommendations may be helpful to the agency. Legislation may also help fast-track this effort.

A universal title should be accompanied by uniform definitions of the terms relevant to title branding—junk, salvage, rebuilt, and so forth. The Department of Transportation, with input by the advisory committee, should also be given responsibility to define these

terms so that there is a common understanding among the States and consumers regarding the information on the title.

The Uniform Vehicle Code already includes such definitions, and provides a promising basis for these definitions.

The Anti Car Theft Act of 1992 has a slightly different definition of salvage, but it is also a good one. The point is we do not have to reinvent the wheel. Workable definitions exist, and they should be included in the legislation. The number and types of vehicles to be covered under the legislation should be as broad as possible, and should not be limited to passenger cars.

At the very least, legislation must encompass vans, multipurpose vehicles, sport utility vehicles, and light trucks. Though not technically called passenger vehicles, these classes of vehicles are the fastest growing segment of motor vehicle sales, and are used by consumers as basic family vehicles.

Advocates supports consumer protection laws, especially disclosure laws. For a number of reasons, we would be concerned about requiring the disclosure of repairs through setting a specific dollar level of work which must be disclosed on the title. Even minor collisions can result in extremely costly repairs. Regional cost differences, as well as inflation, make it difficult to determine a sensible threshold in repair costs that will remain reasonable over a period of time.

One approach might be to consider repair costs at or above a percentage of the vehicle's original cost or its fair market value immediately before being damaged. We would be glad to work with the committee in developing such a reasonable threshold.

Rebuilt salvage vehicles should not only be properly identified to prospective buyers, but they should also be subject to a safety inspection prior to titling. Requiring a thorough safety inspection of a rebuilt salvage vehicle will go a long way toward providing consumers with assurances that they are not placing themselves and their families in unnecessary jeopardy.

Advocates for Highway and Auto Safety is encouraged to see congressional efforts to address these costly consumer difficulties, and we will be glad to work with you to move forward legislation that will inhibit fraud and provide essential consumer protection.

Thank you for the opportunity of testifying today.

Ms. Stone and I would be glad to answer any questions.

[The prepared statement of Mr. Cheek follows:]

PREPARED STATEMENT OF PAUL CHEEK

Thank you, Mr. Chairman. I am Paul Cheek, Vice President of Claims for GEICO. I am accompanied by Judith Lee Stone, President of Advocates for Highway and Auto Safety (Advocates). GEICO is proud to serve on Advocates' Board of Directors.

Advocates is a coalition of consumer, safety, health, law enforcement and insurance organizations working together to promote laws and policies to help reduce death and injury on America's highways and to decrease the economic losses due to motor vehicle crashes, fraud and theft.

On behalf of GEICO and Advocates, I thank you for conducting this hearing and allowing us to testify on the important issue of state motor vehicle titling practices. I will summarize my remarks and ask that my entire statement be inserted in the record.

Advocates is pleased to again be working with this Committee and its members. In the three and a half years since Advocates' creation, we have frequently worked with your Committee, Mr. Chairman, to further a number of initiatives that will save thousands of lives, as well as save taxpayer dollars. This Committee and its

members have played a leadership role in enacting these measures into law. We look forward to continuing to work with you, Mr. Chairman, to see the enactment of S. 738, the High Risk Drivers Bill.

We commend Senators Exon, Gorton and Pressler for introducing legislation on the problem of motor vehicle titling to fill the gaps that exist in dealing with junked, salvaged or rebuilt vehicles.

The Coalition Against Insurance Fraud, a new group formed to fight insurance fraud, estimates that auto insurance fraud accounts for approximately ten percent of premiums, or more than \$8 billion every year. According to the U.S. Department of Transportation (DOT), just the practice of selling rebuilt cars and passing them off merely as used cars costs consumers as much as \$4 billion a year.

This problem is a complex and costly one for consumers. The bills introduced on this topic all offer elements that will help address title fraud and protect consumers. Advocates has identified several key factors that we believe should be included in title reform legislation. Advocates will be happy to work with the Committee to further refine these proposals.

Universal Title: Advocates strongly supports a universal certificate of title among the states, with certain minimum security standards to minimize the opportunities for fraud. The intent of this legislation will be better realized if consumers know where to look on a title for vital information, regardless of the state of origin.

With a universal title, every motor vehicle title would carry the same information in approximately the same place on the document. This is critical to the success of any anti-fraud program, as it is virtually impossible for all law enforcement officers, department of motor vehicle clerks, judicial officials, insurers, used car dealers, auctioneers and consumers to be familiar with fifty different title designs. Model format fields will also facilitate electronic transfer of information between jurisdictions, if necessary.

This type of inter-state coordination has already been proven possible through, for example, the successful commercial drivers license program (CDL). The CDL program has shown how effective this kind of cooperation between the federal government and the states can be in addressing a national problem.

One practical source for a model title and for security standards is the American Association of Motor Vehicle Administrators (AAMVA), which has issued recommendations for "Universal Certificate of Title Specifications and Minimum Security Features."

The Committee should direct the DOT to move as quickly as possible in developing regulations that provide comprehensive vehicle information in a clear format on the title. The Motor Vehicle Titling, Registration and Salvage Advisory Committee, created by the Anti Car Theft Act of 1992, is currently addressing some of these issues and their recommendations may be helpful to the agency. Legislation may help to fast-track this effort.

Definitions: A universal title should be accompanied by uniform definitions of the terms relevant to title branding: "junk," "salvage," "rebuilt," etc. Carrying forward the term "salvage" from one state's title to another is not helpful to potential purchasers if the terms have different meanings in different states.

Thus, the DOT, with input by the advisory committee, should also be given responsibility to define these terms so that there is a common understanding among the states and consumers regarding the information on the title. The Uniform Vehicle Code already includes such definitions, and provides a promising basis for these definitions. The Anti Car Theft Act of 1992 has a slightly different definition of "salvage vehicle" than the UVC, but it is also a good one. The point is: don't reinvent the wheel—workable definitions exist and they should be included in the legislation.

Broad Vehicle Coverage: The vehicles to be covered under this legislation should be as broad as possible and should not be limited to passenger cars. At the very least, the legislation must encompass vans, multipurpose vehicles, sport utility vehicles and light trucks. Though not technically called passenger vehicles, these classes of vehicles are the fastest growing segment of motor vehicle sales and are used by consumers as basic family cars.

Other than commercial motor vehicles over 10,000 pounds gross vehicle weight rating (GVWR), no reason exists to exclude any vehicle normally sold to the general public.

Disclosure of Repairs: Advocates supports consumer protection laws, especially disclosure laws. However, for a number of reasons, we would be concerned about requiring the disclosure of repairs through setting a specific dollar level of work which must be disclosed on the title.

Even minor collisions can result in extremely costly repairs. According to insurance industry sources, the average collision claim in the first quarter of this year was nearly \$1,600. The Insurance Institute for Highway Safety (IIHS) annually

tests the costs of repairing new vehicles involved in five-mile-per-hour bumper crashes. In its most recent tests, the Institute found that five out of nine 1993 model year vehicles suffered more than \$1,000 in damage; two others suffered damage above \$900.

Regional cost differences, as well as inflation, make it difficult to determine a sensible threshold in repair costs that will remain reasonable over time. One approach might be to consider repair costs at or above a percentage of the vehicle's original cost or its fair market value immediately before being damaged. We would be glad to work with the Committee in developing such a reasonable threshold.

Safety Inspection: Rebuilt salvage vehicles should not only be properly identified to prospective buyers, but they should also be subject to a safety inspection prior to titling. Not all states have periodic motor vehicle inspection. Even those that do are checking for the basics (like turn signals, horns and headlamp aim) and are not necessarily attesting to the overall road-worthiness of the vehicle. Requiring a thorough safety inspection of a rebuilt salvage vehicle will go a long way towards providing consumers with assurances that they are not placing themselves and their families in unnecessary jeopardy.

Advocates for Highway and Auto Safety is encouraged to see congressional efforts to address these costly consumer difficulties, and we will be glad to work with you to move forward legislation that will inhibit fraud and provide essential consumer protection.

Thank you for the opportunity to testify today. Ms. Stone and I would be happy to answer any questions you may have.

Senator MATHEWS. Thank you, Mr. Cheek. We are at the point now where we could hear the tapes. Mr. Gray, what length is the tape?

Mr. GRAY. Senator, the tape is approximately 6½ minutes in length. It is a distillation of 4 nights' worth of reporting, about 28 minutes in total. So, we are talking about 6½ minutes, 7 minutes.

Senator GORTON. I would like to see it.

Senator MATHEWS. Yes, may we see it?

[A videotape was shown.]

Senator MATHEWS. Mr. Gray, we thank you for sharing this with us. I would note for the committee that Mr. Gray won the prestigious Society of Professional Journalists' National Service Award for the series that he did, and I thank you for sharing this with us.

Mr. GRAY. Thank you, Senator.

Senator MATHEWS. I understand further that Mr. Blumenthal has an early plane this afternoon, and he is going to need to leave right away. If you have some time, I am sure the committee would like to engage in some discussion. If you need to leave, we understand that.

Mr. BLUMENTHAL. Thank you, Senator. I have about 15 or 20 minutes. If the committee does have any questions, I would be happy to try to answer them.

Senator MATHEWS. Then I will defer to my associate here, Senator Gorton.

Senator GORTON. I will just have one question for Mr. Blumenthal, and then I really think that Senator Pressler comes ahead of me. Mr. Blumenthal holds the same office that I held in my own State.

Mr. BLUMENTHAL. I am aware of that fact, Senator.

Senator GORTON. I will ask this question of the others, too. But this is for you alone in this round.

Each of you has really concentrated his testimony on one of the bills, or one of the ideas. You are the one who has done it on lemon laws. I would like to know whether you agree with the other, with

the salvage vehicle bills, or a portion of these bills as well. Is that something that you have to deal with in Connecticut? And would you like to see these two or more concepts merged into a single bill?

Mr. BLUMENTHAL. Speaking for myself, I am very strongly in favor of the salvage provisions, which embody really the same concepts and prevent the same kind of fraud.

I cannot speak for the National Association of Attorneys General. We have not yet addressed that by way of resolution. But I do know from my conversations with many of my colleagues, and certainly you will understand their interest in consumer protection from your own experience, that there is a lot of support for both concepts.

Both involve, as your bill does with respect to lemon laws, a uniform national approach: Disclosure statements, stickers, stamping and branding of title. And make sure that that stamping and branding is carried forward, in the event that any new titles are issued by motor vehicle departments around the country. And the lack of a uniform standard in both areas, Salvage and lemon law buybacks, is a glaring defect in our present consumer protection scheme that I feel many of my colleagues would join me in urging that the Congress address.

Senator GORTON. Thank you. I'm going to defer now, if I may, to Senator Pressler, who was here ahead of me.

Senator MATHEWS. Senator Pressler.

Senator PRESSLER. That is very kind of you. I am going to aim my questions at both Art Nordstrom and the Attorney General from the State of Connecticut.

To Art Nordstrom, you support setting damage disclosure requirements at a minimum of \$1,000 in damages, I understand. Many believe that amount may be too small. Others do not believe dollar-based damage disclosure is the best approach. Please explain to the committee why you support a \$1,000 minimum standard, and when you have finished, I would like to hear the attorney general's view.

Mr. NORDSTROM. The \$1,000 amount came into being, first of all, to catch all vehicles. Second, in South Dakota—and I think it is in a lot of States—a reportable accident is \$500, for two combined vehicles of \$1,000 or more. Also, we had that any brand new vehicle that had damage in excess of 5 percent of the window sticker, came up to about \$1,000. And that is where we came up with the \$1,000 amount to use.

The \$1,000 amount was passed unanimously by the legislature, except for two dissenting votes that first year; and they looked at it as letting the consumer have the opportunity, at any vehicle that he is buying, to take it to a qualified shop and have it inspected, instead of the department of motor vehicles trying to make a determination whether that vehicle that was damaged was safe or not. Because they were only doing it by paperwork. So, that is where the \$1,000 comes from.

Last year, in the legislature—excuse me, 2 years ago—it was raised to \$2,000. After it had been raised to \$2,000, some of the legislators, in talking to them, had wished that it would have been left at \$1,000; because what happened was that people that were

buying vehicles and repairing them, with the \$1,000, always took it to a frame shop, to make sure that the unibody structure of the car was correct. They maybe could not paint right, and they maybe could not hang the fenders right; but they made sure that it went down the road straight. And that is why the \$1,000 was so important.

The legislature changed it to \$2,000, and right after that we had people coming into our business, and were talking about how they could get under the \$2,000 because they did not have to take it to the frame shop anymore, because they gave them a little higher level, that they did not have to take it to the shop; they could save that \$500 or \$600, and save it on the framework, and they could try and get themselves a clean title. Last year—excuse me, this year—house bill 1182 was introduced in South Dakota by a legislator, for a constituent, and they wanted to change, that anybody that had a title that was granted at \$1,000, and now that the \$2,000 was in effect, could send it in with an estimate, and could get a clean title.

The new car dealers contacted us and said, we need that bill killed; because if that happens, we are going to end up buying some of these, or taking these cars in trade, we are going to be selling them to our customers. They are going to find out they have been wrecked, because for \$5 you can get a title history in South Dakota; and they are going to bring them back, and we are going to have to buy them back. We do not want that changed.

And so, that is why right now we are at \$2,000; but if they had their druthers, they would go back to \$1,000.

Mr. BLUMENTHAL. I am not here, again, speaking on this issue for the National Association of Attorneys General. But I would simply provide my view, my personal view, that perhaps this kind of limit might be an area where some State discretion might be accorded; and that, perhaps, the Congress might leave some discretion to the States to set those standards.

Senator PRESSLER. Good. I will address this question to both of you. What are your views on an approach that requires a title to be marked, as under Senator Exon's bill, but also includes a dollar-based disclosure? Would that provide a consumer with the greatest amount of disclosure information?

Mr. BLUMENTHAL. My own view is that the important feature of these measures is that it provides, all of them provide, for a stamping and branding of title that, as Mr. Gray said, does not go away. That really is the key feature, in my view, of this bill, of the State statutes that have been passed, and hopefully of any measure that is passed by the Congress.

Mr. NORDSTROM. We are totally in favor of carrying any brands forward from any other State. Because we have total disclosure in South Dakota; the recycler is working with our department of motor vehicles, where the No. 1 thing is to protect the consumer. And like I said, we have tried percents, we have tried salvage titles and everything, but what we have got—I may sound proud, but it works.

Senator PRESSLER. OK. Later, of course, we can get Mr. Cheek's views on that; but while the attorney general is here, under the automobile damage consumer protection bill, would a dealer be lia-

ble if someone lies on a trade-in about the damage? Further, would an individual be liable, if he or she forgets to disclose damages when selling or trading a car?

Mr. BLUMENTHAL. I would need to see the specific wording of that proposed statute, Senator, with all due respect. I did not review it before coming here. Under certain circumstances, certainly there could be liability on the part of the dealer, and possibly also on the part of the person selling it.

Mr. NORDSTROM. When the legislation was written, we put into statute that anyone who intentionally falsified a damage disclosure was the one that was liable for that disclosure. And it excluded dealers, unless the dealer had taken a direct vehicle in trade and fixed it, and put it on the lot and did not tell anybody about it.

Senator PRESSLER. OK, this is my last question on this round, and then I will yield to others. And I will have some more questions for the next round. Let us suppose I have a fender-bender, estimated by my insurance company to cost \$5,000. Because I can get my brother to pound out the dents for free, I choose to take the check from the insurance company and never look back. How would the consumer be alerted to my actions, under this legislation? Or how should they be? How would the consumer be alerted, under the various bills? Or what should be done here?

Mr. NORDSTROM. No. 1, it is a little bit of a difficult question to answer. When I first started, that was brought up a lot; but now that we have had it since 1988, it is not a problem. Because the Argus Leader, which is our main paper, has put a statement that is in the paper all the time, about the disclosure law. And people that have had damage on their cars, when they go to sell a vehicle to somebody, they are going to make sure that it is disclosed, because they do not want anybody coming back after them.

In 1988, we had less than 100 requests to our department of motor vehicles for title history. Last year, we had 3,500 requests, and it has just been jumping like crazy since they got something out and educated the people about it.

Senator PRESSLER. Thank you. I will take another round of questions, when we go around again, Mr. Chairman.

Senator MATHEWS. All right. If either of you have additional questions for Attorney General Blumenthal, you may want to go ahead, at this point.

Mr. BLUMENTHAL. I want to apologize that I do have to leave early, Senator. And I very much thank the committee for giving me this opportunity to testify on behalf of the National Association of Attorneys General, and also for your patience and understanding with my flight schedule. Thank you.

Senator MATHEWS. Thank you. We appreciate your taking the time to be here with us, and to share your thoughts with us. Let me take a moment, Mr. Van Winkle, to ask you a question or two.

As I understand it, your home company is located in my hometown, or your parent company, the Anglo American Auto Auctions.

Mr. VAN WINKLE. Nashville, TN.

Senator MATHEWS. It is located in Nashville, TN; and I want to say a word of special welcome to you. I hope you have the occasion to visit from time to time.

MR. VAN WINKLE. I will be down there Thursday evening. I generally get there about once or twice a month.

SENATOR MATHEWS. We are hoping to do the same thing, to be there before the weekend. The majority leader indicates that we have one important bill, and if we do not get that passed, we will not be going home this weekend. We are going to be in a little bit better frame of mind, or at least I am, after that; let me put it that way.

You indicated in your testimony that you filed that your company made a particular effort to trace the title history of automobiles, and have some information available to the purchasers. What advantages or disadvantages have you run into?

MR. VAN WINKLE. Well, its good advantage is, we are the only auction company that is connected on our computer that—we are with Polk Co.—and we run about every 100 to 150 cars, we run them again on our computer, and it kicks out if it has had previous salvage or odometer trouble. But anything is not perfect, and we would like to see it better. If we had a disclosure act on it, well then we do not ever have to worry about it. But we miss some. And some of them, we do not. There are some of them we get; we get a lot of them.

But I am sure that most of the people think, the dealers think, that now that we do have it, and we are the only auction that does have it, they are going to other auctions. Because normally, we will call the dealer in and tell him that, "Your car has a previous salvage title." Maybe one or two of them will say, "Go ahead and run it, and announce it"; and the other ones will just say, "Well, pull it." And we never see the car anymore. So, they are going to other auctions that do not have what we have.

SENATOR MATHEWS. Does your practice, and your having this information available, make better purchasers out of buyers? Do you find them more cautious, if they know that this information is available somewhere?

MR. VAN WINKLE. Absolutely. They are tickled to death with it. They are very much satisfied. We have dealers calling us all the time, to check to see if it has a previous salvage title on it.

SENATOR MATHEWS. Do you find any disadvantages, in terms of people refusing to bring their cars to your auction? In other words, are you going to check them?

MR. VAN WINKLE. We are losing some business out of it. But we are kind of happy to lose it, because we do not like the grief that we have to go through; where dealers get mad at us, thinking we are the cause of it, and we know nothing about it. So, we have lost some business, but we are kind of happy about it.

SENATOR MATHEWS. All right. Thank you. Mr. Gray, in terms of your series, what got you onto this particular activity?

MR. GRAY. This story came to us, Senator, through a telephone call we got from a young man who had just bought a car, and who discovered that the car was difficult for him to drive at interstate speeds. He had a wife and a young child. He did not feel comfortable having his family in that car. He called us because he wanted to know what was wrong with his car, and he was curious as to whether we could help him.

We got on the trail of his car, and the more investigation and the more research we did, the more we found that this was a problem not only for him, but for a number of other people. And it kept going and kept going, and that led us to the story that you saw today.

One thing I might point out is that we were able to do something that he could not do: We had the time, through the good offices of Scripps Howard Corp. and their generous coffers, to actually investigate car titles. And sometimes those investigations took us to attics of State office buildings in Columbus, OH, where we went through stacks of boxes—the old-fashioned way, looking at slips of paper—for bits of evidence that would lead us further down the trail of tracing down some of these cars.

In other words, there was no easy system for consumers to follow, to check out the origin of their cars or to find out what the history of their cars had been. And, as I am sure you can imagine, not every car buyer—in fact, very few car buyers—would be able to spend the time in a dusty, moldy old attic in Columbus, OH, trying to find out the history of their car. We were able to do that for this particular individual, and for several others. And as you saw in the videotape, when they found out about it, they were quite surprised.

Senator MATHEWS. I am sure there are many. But what has grown out of your series, your investigative series and reporting here, have you brought about changes in the law? Some of the things that we are talking about here today obviously emanated from this type of investigative report work. What positive benefits do you see today?

Mr. ZARCHIN. Senator, if I could answer? Recently, the Ohio Legislature passed a branding law. They made a law similar to what we are talking about today effective for Ohio. Part of the problem is that the neighboring State of Kentucky does not have a similar law. What we found in our research in doing the story is that, if your neighboring State does not have a title law, then that State becomes a dumping ground for the rebuilt wrecks.

Senator MATHEWS. Thank you. Our chairman has returned. Let me turn the meeting over, back to him. Chairman Exon.

Senator EXON [presiding]. Senator Mathews, thank you for filling in. I had to leave for the floor, and I had to be there for a little bit. I appreciate your taking over. Where are we, in the line of questioning? Has everybody had one round?

Senator MATHEWS. We are going through one round.

Senator EXON. It would be then my turn to ask questions. Let me just say first, let me ask you this question, Mr. McCarthy. Do you have any estimates, ballpark or otherwise, as to what the cost of this salvage fraud imposes on automobile dealers of the United States? Have you seen any figures on that? Do you have any estimates?

Mr. McCARTHY. We do not have any total figures, Mr. Chairman. But we know of individual instances where it has cost dealers a great deal of money, and also consumers; because dealers do, inadvertently, take in a rebuilt car that they did not know about, and sell it. They will always buy it back.

I would like very quickly to add here, because I heard Mr. Van Winkle give good testimony, but he mentioned the word "dealers" several times, as if they might be involved in this. I represent new car dealers; they sell used cars. We have even initiated a new service, Mr. Chairman, because it can cost dealers lots of money, where a dealer can call in the VIN number of a car and trace the title of that car, to see if it has been rebuilt, salvaged, and so forth. This is very important, because it is costly if a dealer should inadvertently sell one of these vehicles and later have to buy it back.

The legislation that you have offered would add further protection for this. But individual dealers, in many cases, have had to buy back a \$16,000, \$18,000 car, take big losses on these, when they eventually found out that it was a rebuilt car. No dealer in this country wants to sell one. Their liability is high; the loss is great. And we are doing what we can to protect the dealer; and ultimately, the consumer.

Senator EXON. It is awfully encouraging for those of us who try to write these laws in a fair and equitable and workable manner, to have people who are out there where the rubber meets the road, so to speak, on the dealer lots—new, used, and so forth—to have you come in here as a dealer, supporting this concept. I think that shows the quality of our dealer organization.

Certainly, also, I recognize that it has undoubtedly cost the organizations and the individual dealers lots of money. Unfortunately, you know about it, but the average public does not get very much excited about this until it happens to them. Therefore, the fact that U.S. dealers are here—you know, the average person out on the street there thinks that, well, you know, somebody in the automobile business, the new or used car business, they could spot one of these rebuilt cars.

Well, I suspect that, while you are very knowledgeable of the product you sell, it is pretty much next to impossible, unless you put every car up on the rack and do an awful lot of checking around, for you to make any evaluation. Certainly, I know that Mr. Van Winkle has had a lot of experience in this. And you are a professional. It is pretty easy to fool you, I would imagine, on a rebuilt car; is it not?

Mr. VAN WINKLE. It sure is. We sell about 65,000 cars a year in Omaha, and we cannot inspect every car. We can notice, maybe, if a fender has been repainted or a door has been repainted; but it is hard to tell, without really inspecting the car.

Senator EXON. I assume that a high percentage of the used cars today go through automobile auctions. The used cars that end up on nonnew car dealer lots and some of them on new car dealer lots, what percentage of them go through an auto auction? Half of them, 60 percent of them, what is the figure?

Mr. VAN WINKLE. Well, some dealers do more business with auto auctions, although the majority of them do a lot of it. But it is pretty hard to figure a percentage. Some dealers operate strictly on auctions and some of them operate strictly retail, so it is kind of hard to put a figure on it.

Mr. McCARTHY. I would like to add this that might be helpful, our figures show that more than 50 percent of the used car transactions in this country are from one individual to another. So, some

of the safeguards that I am talking about, as is Mr. Van Winkle, are not available to these individuals. That is all the more reason why this legislation is important.

Senator EXON. Gene, let me ask you this question, since I know you have been in business for a long time. In your opinion, what are the benefits—if there are benefits and I assume there are some—of relying on the recommendations of the Federal task force regarding uniform procedures for titling, branding, and so forth and so on, as opposed to writing it into legislation as we are attempting to do with our bill? What are the pros and cons of those, as you see them?

Mr. VAN WINKLE. Well, they have good merits, all of them do. Personally, myself, I would like to also see where a title actually says previous salvage title, because Iowa just started a new law, they make you put down the actual figure. And we had a car in our auction a couple of weeks ago, a Lincoln Continental that had 13,000 some odd dollars' worth of damage with it, and we sold that car.

But the lady that bought the car was from down in southern Nebraska, down by Beatrice, and she made a deal with the dealer, the Iowa dealer that sold it. And he gave her back some money and she said well, I will keep the car if Nebraska does not put it on the title. It was not marked salvage so they did not put it on the title.

Senator EXON. Well there is a car.

Mr. VAN WINKLE. That is right. And if it would have been marked salvage to start with and it was branded from what this law is for, it would have went right on the Nebraska title.

Senator EXON. Mr. Nordstrom, could you explain in a little more detail how disclosure of the previous damage in a vehicles title could help law enforcement in their efforts to stop the trade of stolen automobile parts?

Mr. NORDSTROM. Right now all the legislation is geared after the insurance company cars. I want to just use an example of one car. Say a 1990 Cadillac was stolen—and I am going to use South Dakota because that is where I am from—in South Dakota. OK, law enforcement can take—this year, next year, whatever, at any time any other 1990 Cadillac or car close to it that those parts will fit, law enforcement can pull out of DMV the titles of those cars with the disclosure because the dollar amount is low enough, and can go back to find out where they were repaired and where the parts came from.

All legitimate shops are going to have records. If they go back to somebody and he says "Well, my neighbor fixed it down the street," they might go down to the neighbor and they might have just got on to a stolen parts ring. A lot of that stuff happens by accident, but if you go after the cars that the parts are being put on you have got a better chance of cutting it down.

Senator EXON. Tracing it back; right?

Mr. NORDSTROM. Tracing it back, right. I think to the insurance people themselves, if thieves found out that they are going after the cars that they are tracing it back on, there would be less vehicles sold and it would save them a lot more money.

Senator EXON. Mr. Cheek, do Advocates have any suggestion for insuring, if we can use that word, that consumers will have access to the salvage history of all vehicles, and not just have those that have been declared totaled by an insurance company? How do you feel about that?

Mr. CHEEK. Well, I would think that the individual department of motor vehicles would have this information, and it would be available to any consumer.

Senator EXON. By and large, as representatives of dealer organizations, have you generally found that the motor vehicle departments of the States have been understanding of and in support of some type of legislation on this matter that we are considering here?

Mr. McCARTHY. The answer is yes. Jim Lust, our current dealer president, is from South Dakota and he does brag about the fact that consumers, for \$5, can get the history. Most States are the same, but we definitely have the problem that was outlined. All States do not have similar title branding and it is so easy to wash it in those States that do not, and that is what happens. So, your legislation will go a long way toward correcting that.

Senator EXON. Other further questions. Senator Gorton.

Senator GORTON. Attorney General Blumenthal came and spoke about the lemon cars here, and not about the other bills. You have all spoken about the salvage or the damage disclosure and so on. I would appreciate the informal views of each of you, and I guess we can just start with Mr. McCarthy and go across the line, on whether or not the same set of rules ought to apply to lemon law cars.

Mr. McCARTHY. We think basically, yes. There is one thing we feel pretty strong about. Lemon laws cover cars that have been manufactured with a defect, and we just want to be certain that the dealer is not required to buy these cars back because the dealer did not build it.

Mr. ZARCHIN. Senator, we are here more as reporters than advocates, but I think one of the things that we found in our story is that anything that can help the consumers get information, anything that will make it easier for them to know what they are buying and make the decisions for themselves would be helpful.

Senator GORTON. Well, let me stop with the two of you on that and congratulate you on a great story. Television has a magnificent ability to educate under those circumstances, and that kind of story must have dramatically increased consumer awareness in your market. Do you know of any other comparable stories by other television stations, or did any other cities show interest in repeating the series that you put on?

Mr. ZARCHIN. After we did our series, 60 Minutes followed with a similar story which was one of the reasons that it got a lot of national attention as well.

Senator GORTON. Thank you, in any event, for a real public service. But if you will go on now on, I guess, to Mr. Van Winkle.

Mr. VAN WINKLE. I think it has a lot of good merits. We sell all the manufacturers. We have GM, Chrysler, and Ford sales. And we get those arbitrated cars that come back through some of our sales, and the dealers have to sign a slip and we tell them what was

wrong with the car and if it has been fixed or if it has not been fixed, and then they have to sign a affidavit that they are buying the car that way. So, it has some good merits. I think people like to know about it.

Mr. NORDSTROM. Well, in South Dakota, of course, we have got the disclosure law and the low dollar amounts, and they passed the lemon law this year. So, they are covered all the way around and there was no opposition whatsoever. So, the legislation will be fine.

Mr. CHEEK. I am going to defer to Ms. Stone on this.

Senator GORTON. Fine, I will be glad to give you an opportunity to say something.

Ms. STONE. Thank you. Awfully nice to be heard. The reason Advocates did not include anything about the lemon law issue in our testimony is because we simply do not have a position on it. It does not mean that we would not support it. And, indeed, we are very strongly behind consumer disclosure laws and have been active in the States in getting bumper strength State laws passed, and I cannot imagine that our board would not support this concept. But we remain silent on it in the testimony.

Senator GORTON. Now let me ask a question of each of you, and this will apply to either of these approaches or to both of them. We have dealt, in the testimony here today, almost exclusively with a notification on the title of the automobile. One aspect of the bill that I have introduced requires, while the automobile is in a dealer's lot, a sticker on the window to indicate and to pass on this information. Is that an appropriate notification, whether we are dealing with lemon or salvage cars?

Mr. McCarthy, we could start with you.

Mr. McCARTHY. The sticker on the window gets a little more difficult, because on the title, you know, it is a known definition of defect or title branding, it is on the title. But putting stickers on windshields, whether they are fixed or not, can cause trouble. Today with some of the disclosures required on some of the windshields or side windows of cars, it presents a problem. Some of the cars do not even have back windows and you have to put it on the passenger side or the driver's side.

We are for disclosure, do not get me wrong. Flatly, we are for disclosure. But we question whether stickers on windows on used car lots is the answer? Candidly, we can see some problems, but we would like to work with you to figure out how to do it.

Senator GORTON. Fine. Thank you. Do you have a comment, Mr. Gray?

Mr. GRAY. Again repeating what Mr. Zarchin said earlier, just in our role as observers and reporters, the one thing that we found repeatedly was that when people went to buy a car they would kick the tires, slam the doors, dance on the bumpers, toot the horn, turn on the radio, but they did not look at the content of the title. Even if the title had been stamped and branded, in very many cases that stamp, that brand would not have been seen. That would seem to indicate that perhaps there might be some need for disclosure in addition to stamping and branding, which is an important step too.

Senator GORTON. Mr. Van Winkle.

Mr. VAN WINKLE. I think it would be a little hard on the dealers, from being around the dealers and being in business myself, be-

cause a lot of your owners and stuff, your salesman takes in a car and he really, or the secretary in the office, they do not know that car has got a salvage or previous salvage title. So, if they had to put it on the car, I think that you would get some innocent dealers in trouble. I could not see where there would be a lot of advantage to it.

Mr. NORDSTROM. I would have to agree that I do not think there would be a lot of advantage to the sticker. The biggest thing that we saw was the education the minute it was put out. I mean it seems like when they come into a lot right now and are looking at a vehicle, "been wrecked?" is the first question, it seems like that is No. 1 right now. And if it has, then they can make that determination. So, just educating the people that are out buying a car I think will go a lot farther.

The Northland Used Independent Car Dealers in our area have said—he was saying that he thought that 50 percent—they said that they felt that 60 to 70 percent of the cars are bought and sold between private individuals. So, that leaves a lot of people out there that do not know what they are buying.

Mr. CHEEK. I do not think anyone would seriously oppose the sticker, but I do not believe that it would be nearly as effective as the title.

Senator GORTON. Oh, this was not in substitution for it.

Ms. STONE. Can I just say something about that?

Senator GORTON. Sure.

Ms. STONE. I think it is important to keep the information to the consumer in one place, the important pieces of information about a car. And therefore sometimes when it is not on a sticker—and I do understand that there is a lot of information out there that has to be put on the car, but when it is not there the consumer just simply does not see it. And it may not be because somebody is trying to hide it from them, but if it is there with all the information about the safety features in the car and other pieces of important information, they are more likely to see it.

Senator GORTON. Thank you.

Thank you, Mr. Chairman.

Senator PRESSLER. Mr. Chairman.

Senator EXON. Senator Pressler.

Senator PRESSLER. I have one final question. I want to again pay tribute to Mr. Nordstrom, who took his first airplane ride today. He got up this morning in Sioux Falls, flew all the way here, and he is going to fly back tonight, because he is running a small business and he cannot afford to be away more than that amount of time.

Now, Mr. Nordstrom—and I have some additional questions for all of you for the record, but Mr. Nordstrom, I know you brought examples of photos that can be used to illustrate a good comparison between Senator Exon's proposal and my legislation. Could you walk this committee through those examples of damage disclosure and specifically explain how the consumer is alerted if an insurance company is bypassed?

Mr. NORDSTROM. I think that—can you hear me without the mike, it is kind of in the way. These are three vehicles that we have dealt with in just the last 2 weeks. Our dealings are mostly with insurance companies, but we buy a lot of vehicles—

Senator PRESSLER. Go ahead and use the microphone.

Mr. NORDSTROM. We buy a lot of vehicles from private individuals, and we buy a lot of vehicles from dealers. Now, I am not picking on the dealers this time, but I am just going to use these as an example of what happens. And being in the salvage business, a lot of people do not realize it. They say totaled, or if the insurance company takes possession of the car it is a totaled vehicle, but let me show you something.

And I can pass these around if you would like.

Senator PRESSLER. You can just hold it up there. We will take a look at it.

Mr. NORDSTROM. This car right here is a 1992—oops, excuse me. Yes, a 1992 Honda Accord EX. The car has got a book value of \$16,800. The cost of repair is \$8,969.61. The car has got 26,213 miles. It drives. It was rolled over in the State of Minnesota. The dealer called us in Sioux Falls and wanted to know if we were interested in buying it because they were going to take it in trade.

They have found too that they can take damaged cars in trade, sell them without fixing them, and still make money on it. Or if they do fix it and put it on the lot, they will put a disclosure with it and the people buying it know what they are getting. In the State of Minnesota, in this case, if the owner would just take the insurance check, he could sell the car to anybody and there would never ever be any indication of branding whatsoever on the car because of the fact he is the owner. The insurance company is just paying him the check for the damaged value.

I do not know what has happened on this yet, whether somebody else has got in and bought it privately, but if it ends up in South Dakota it will have a disclosure on it. And the picture and the estimate is on the back from where the estimate was written.

It was kind of ironic, the estimate on this is \$8,900. There was an estimate written in Minnesota for \$4,000. Over a \$4,000 spread between the two. One was a complete estimate, one was an incomplete estimate. So, they are strictly estimates.

If we get the car, we will end up turning it, and we are going to try and make a profit on it. But one guy we have already talked to has got a body shop, fixing it on his own time, will fix the car for probably he figured about \$2,500, because it has got a sun roof and the track is damaged on it. Anybody who wants to see these pictures, I will show them to you.

The other vehicle that we are working on right now, this guy is a very particular guy, he has got a 1992 Grand Am. The driver's door is caved in on it. The repair estimate on this car is \$5,360.40, and you could take that door off the car, put another door on it, and drive the car away. And there is a little bit of damage on the second door. It does not appear to be that bad, but if you go by figures only it does not give you a true estimate of what the dollar value is.

If I end up with this car, I will sell you the car and I will sell you a door for \$450. But the thing about it is, if it does get traded into the dealer it will come with the disclosure to us, and whoever buys the car is going to get a disclosure from us.

Because the door is being repaired, it probably can be repaired properly. But, there again where the disclosure would fit it, what

happens if the door that is put on there is a stolen door, or maybe say it was a front end, a stolen front clip or something. OK, law enforcement through our State can go through the computers, there again, and find out anything that happened to 1992 Grand Ams, because a new body style started in 1991.

And we do have some high-priced cars in South Dakota too. This one right here is water damage. We had a lot of flood cars in South Dakota. You would not think it could happen, but it happened when Sioux Falls got hit. This is a 1992 Mitsubishi Diamante DL. It has got 23,000 miles on it with a gold package. The car is sold—we sold the car for \$16,500. It has got a book value of \$26,000.

This happened, I am sorry to say, a lot during the flood that we had down there. There were close to 250 cars that were totaled out in Sioux Falls. By the word totaled, that the insurance company took possession of them or people sold the cars and took the checks. This one here, the guy had worked the insurance company up to \$8,900 for replacement of seats, electric motors, safety belt restraints, and everything. He took the check for \$8,900. All he did was shop-vac the car, sold it to us. I am sorry to say but it went to Nebraska, but it went with two disclosures, one from him, one to us. And what the State of Nebraska does, I do not know, but it will have a South Dakota damage disclosure following the vehicle.

And the other one here, this one is on our videotape. As I said, anybody can have that if they want it. Senator Pressler, you will have that in your office. This one here is a brand new 1993 Ford Pickup. If anybody wants to see what this looks like, it is right there. This truck had a window sticker of over \$22,000. It had a written estimate of \$15,600 and some odd dollars on it. It went through a ravine. It was still driveable. If you did not see the pictures and I told you it had 15,000 dollars' worth of damage and it was a \$22,000 truck, you would call that severe damage.

What happened, the insurance company took bids on it. It is a brand new vehicle. It is an MSO vehicle. They took bids on it. The insurance company paid off on the vehicle. The dealership bought it back for the salvage value, so all they took was a check for the difference of the repair. We bought the vehicle from them. We sold it to a guy in Minnesota, and Minnesota cleaned up the title on this vehicle. It went in with two damage disclosures but Minnesota's law at that time allowed—they went by percent, 70 percent, and with a written estimate and photos, and they cleaned the title up.

Now where this is going to end up, I have no idea. It could go to an auction. It could go to anybody privately. But it does have significant frame damage on it. The dealership did cancel the warranty on it, so it is not going to come through on warranty. But the thing about it is, the guy that bought the truck fixed it for \$3,500, and he could do it for \$3,500. He straightened a lot instead of replacing it.

So, that is why when you start talking percents, you start talking total, you talk about insurance company cars, you do not hit everything. And this is what we see all the time in my business since we have built it, and that is why we came around with the broad-based disclosure at \$1,000, then it went to \$2,000, and I wish it was at \$1,000 again. It will protect the consumer.

Senator PRESSLER. Thank you very much. I am very proud of your testimony.

Senator EXON. Senator Mathews.

Senator MATHEWS. No further questions, Mr. Chairman.

Senator EXON. Gentlemen, we really appreciate your coming here today. This has been a tremendously informative meeting. There may be additional questions for the record, and if so we would appreciate your responding as quickly as you can to those.

You have been a very excellent panel and have been very helpful to us. I simply invite you, on behalf of the Senate, to keep sending us in your suggestions and comments as we move forward on these things. And if you feel that you have any more help that you can give us, give us a call or drop us a line. We want to work very closely with you people out there in the trenches, because if we write a law here that is not going to work out there, it does not do anybody any good. So, we really appreciate your advice and your input.

Thanks for being here and we are adjourned.

[Whereupon, at 4:25 p.m., the hearing adjourned.]

APPENDIX

PREPARED STATEMENT OF SENATOR GORTON

I would like to thank the Chairman for arranging a hearing on this legislation, despite the Senate's hectic schedule. I am pleased that we are moving quickly on this issue, and I look forward to working with Senator Exon and Senator Pressler. Like the legislation introduced by Senator Exon and Senator Pressler, the Used Car Consumer Notification and Reporting Act addresses the salvage fraud issue, but it also addresses the problem of resold lemons.

The same circumstances which allow salvage fraud to occur allow "lemon fraud" to occur. The lack of uniformity among state titling and disclosure laws allows a lemon to be returned in one state, transferred to another, and sold to a consumer without him or her knowing that they are buying a lemon. Despite even the best of efforts to let consumers know about a vehicle's history, unscrupulous individuals can easily obtain a clean title free of the "salvage" or "lemon" designation by retitling it in states which do not require this information to be carried forward.

The legislation I have introduced will put a big dent in used car fraud, which not only causes serious safety problems, but is a blatant consumer rip-off. Used car fraud is allowing thousands of unsafe vehicles to end up in the hands of unsuspecting buyers, and it is letting them pay more for these vehicles than they're worth. Not only do they pay more for the car when they buy it, but when it breaks down, they end up shelling out even more money for the repairs. The legislation I have introduced will remedy these problems by establishing a nationally uniform certificate of title, carrying forward buyback and salvage designations from one state's title to the next, and by providing for strong consumer disclosure. By placing a disclosure sticker on the window of the vehicle, the consumer knows, as they are making their decision, that the car was either a salvage or lemon vehicle.

The decision to buy a car is not one that consumers take lightly. It is a huge investment that takes a lot of careful thought, research, and consideration. Someone who has decided to spend thousands of hard-earned dollars on a car deserves to know as much about that vehicle as possible. Today—especially—when families are trying to "tighten their belts" and make wise use of every dollar, this information is vitally important, and the legislation I have introduced will allow consumers to make informed decisions about their investment.

I asked the advice of many people in drafting this legislation. Since some people cannot be here today, I'd like to submit their letters of support for the record. One is from Christine Gregoire, the Attorney General for Washington state, and the other is from the Consumer Federation of America.

LETTER FROM CHRISTINE O. GREGOIRE, ATTORNEY GENERAL, STATE OF WASHINGTON

JULY 28, 1993.

Honorable SLADE GORTON,
U.S. Senate,
Washington, DC 20510

DEAR SENATOR GORTON: I am writing to support the legislation you recently introduced in the Senate to protect consumers who unsuspectingly purchase lemon or salvage vehicles without any disclosure of the vehicle's history.

The state of Washington probably has the strongest Lemon Law in the country. However, we have taken legal action against firms for failing to disclose to subsequent purchasers that the vehicles they purchased had previously been adjudicated a Washington lemon.

Our law is particularly strong regarding returned lemon vehicles that are resold in the state of Washington. We note a disturbing trend among vehicle manufacturers to remove Washington's lemons to other states, most probably for resale. I am enclosing an excerpt from our 1992 Lemon Law Annual Report which shows the out-

of-state disposition of adjudicated Washington lemon vehicles. It is particularly noteworthy that Chrysler, Ford and General Motors remove any vehicles to Oregon and Utah. While Washington's lemon documentation follows the vehicle, we have concerns that the subsequent purchasers in other states may not receive the lemon disclosures.

Last year we cooperated in an investigation conducted by the Inside Edition New York-based television program. Their investigators tracked a number of vehicles through the Vehicle Identification Numbers (VIN) we provided them. They then contacted—purchasers of the Washington lemon returned vehicles to determine if they were aware of the history of the vehicles. Two segments appeared in November and December of 1992 documenting the problems of subsequent purchasers of Washington returned lemons.

In conclusion, I strongly support the "Used Car Consumer Notification and Reporting Act" as an amendment to the Motor Vehicle Information and Cost Savings Act. If you desire any other information or if we can be of further assistance, please feel free to call on me.

Sincerely,

CHRISTINE O. GREGOIRE,
Attorney General.

MOTOR VEHICLE LEMON LAW—ANNUAL REPORT, JAN. 1, 1992—DEC. 31, 1992

Resale Compliance (Vehicles returned 1988–92)—Out of State Dispositions

Manufacturer	Destination State	No of vehicles
Alfa Romeo Distributor of North America	New Jersey	1
	Oklahoma	1
	Oregon	1
American Honda Motor Co., Inc	Oregon	5
American Isuzu Motors, Inc	California	2
	Oregon	1
	Utah	1
	Oregon	2
Audi of America, Inc	California	1
BMW of North America	Idaho	6
Chrysler Motor Corp	Montana	2
	Ohio	1
	Oregon	66
Daihatsu of America, Inc	California	1
	Oregon	1
Deere & Co	Florida	1
Fleetwood Enterprises, Inc	California	1
Ford Motor Co	Idaho	3
	Minnesota	1
	Ohio	1
	Oregon	17
General Motors Corp	Idaho	3
	Montana	1
	Oregon	8
	Utah	63
Georgie Boy Mfg., Inc	Michigan	1
Hyundai Motor America	Idaho	1
	Oregon	4
Land Rover Cars of North America, Inc	Texas	1
Maserati Automobiles Inc	Idaho	1
Mazda Distributors (West), Inc	Oregon	3
Mercedes Benz of North America	California	1
Mitsubishi Motor Sales	Idaho	1
Nissan Motor Corp	California	2
	Colorado	1
	Oregon	3
Peugeot Motors of America, Inc	California	6
Porsche Cars of North America, Inc	Oregon	2
Subaru of America, Inc	Nevada	3
	Minnesota	1

Resale Compliance (Vehicles returned 1988-92)—Out of State Dispositions—Continued

Manufacturer	Destination State	No. of vehicles
Suzuki of America Automotive	Oregon	4
Toyota Motor Sales, U.S.A., Inc	Oregon	1
Volkswagen United States	Oregon	2
Volvo North America	Oregon	1
Winnebago	California	1
Yugo America, Inc	Oregon	1
Total	Idaho	2
		235

Vehicle Disposition Reports Pending—There are 33 vehicles that have been returned to various manufacturers for which no resale or other disposition status has been reported.

LETTER FROM JACK GILLIS, DIRECTOR OF PUBLIC AFFAIRS, CONSUMER FEDERATION OF AMERICA

JULY 20, 1993.

Senator SLADE GORTON,
U.S. Senate,
Washington, DC 20510

DEAR SENATOR GORTON: As a representative of over 240 state, local and national consumer groups, the Consumer Federation of America supports your bill to amend the Motor Vehicle Information and Cost Savings Act to require the establishment of federal requirements regarding the disclosure and reporting of salvage vehicles and manufacturer buyback vehicles.

For most of us, the car is either the first or second largest purchase we will make. In addition, there are few products that we buy which have a greater impact on our own health and safety as well as the public health of America. As such, we are concerned any time a consumer buys a motor vehicle for which full disclosure has not been made on that motor vehicle's history. In fact, unless a rebuilt motor vehicle has passed a rigorous safety inspection, it may be a hazard to the purchaser.

What is particularly important in your bill is the requirement that consumers be told of "lemons." All too often car dealers will resell vehicles whose mechanical problems are so severe that the manufacturer took the car back. These cars should not be resold without the full disclosure that your bill would require.

We believe that the five specific requirements of your bill will go a long way to assist the American consumer in making an informed and safe choice when it comes to a used motor vehicle. This is particularly important because each year an estimated 18 million of us buy used motor vehicles, primarily because they are less expensive than new cars. Your bill will help ensure that those of us who cannot afford brand new cars will not be subjected to safety hazards because of that fact. In addition, public notification of which vehicles are, in fact, salvage vehicles will affect their price, thereby lowering the cost of salvage vehicles to those customers who may want to purchase such a vehicle.

We appreciate the efforts that you are making to protect the American consumer and support your efforts to pass this bill during this session of the U.S. Senate.

Sincerely,

JACK GILLIS,
Director of Public Affairs.

PREPARED STATEMENT OF THE ASSOCIATION OF INTERNATIONAL AUTOMOBILE MANUFACTURERS

The Association of International Automobile Manufacturers, Inc. ("AIAM") is the trade association that represents the U.S. subsidiaries of international automobile companies. AIAM member companies distribute passenger cars and light trucks that are either imported into or manufactured in the U.S. Altogether, the international automobile industry supports more than 400,000 U.S. jobs in such areas as manufacturing, the supplier industry, dealerships, transportation, port and R&D facilities.

There is a great need for uniformity in "title branding" of vehicles repurchased under state lemon laws. AIAM supports the following federal preemptive provision that would guarantee complete uniformity: "The provisions of this Act shall supersede any and all State laws insofar as they may now or hereafter relate to any disclosure of whether a motor vehicle is a manufacturer buyback vehicle." This language is clear and unambiguous and should be substituted for the current preemption language in S. 1232.

This language mandates uniform notice procedures among the states. It would not establish, nor does AIAM seek, preemption of the substantive requirements of the various state lemon laws. The states' interest in regulating in this narrow area is outweighed by consumer benefits to be deprived from uniform treatment of this interstate problem. Indeed, the state attorneys general clearly recognized the need for uniformity when they adopted a model title branding law.

Tracking repurchased vehicles is an interstate problem. After being repurchased, most vehicles are returned to the manufacturer who sells them at auction. The auction frequently does not take place in the state where the vehicle was repurchased. Moreover, those entities that purchase at auction may reside in another state, and may in turn sell the vehicles in yet a third or fourth state. Cars are moved around to meet the needs of the used car market and consumer demand. The process can, and frequently does, involve a number of states. Indeed, the vehicles may travel across vast areas of the country after being repurchased.

Both the states and manufacturers have recognized the need to provide disclosure to consumers concerning vehicles that have been repurchased under state lemon laws. However, because of the interstate nature of the resale process and the number of different parties involved in the chain of transactions, neither has been fully successful in providing notice. Most manufacturers have elaborate notice procedures. For some, auction purchasers receive forms making full disclosure of the reasons for the repurchase. These forms must be signed by purchasers who are, in turn, directed to give further notice to the next purchaser.

Other manufacturers provide repurchased vehicles with an extended warranty that only begins when the ultimate consumer advises the manufacturer which includes acknowledgement of the vehicle's history. However, because manufacturers do not themselves resell the vehicles to consumers, they cannot guarantee that in all cases the notice will be carried along with the vehicle.

In recent years, a number of states have enacted laws requiring that notice be given. However, because the states cannot act beyond their own borders, such notice does not necessarily travel with the vehicle. Recognizing that notices could be removed from the vehicles, several states have passed legislation that would require the titles of vehicles to be branded if they have been repurchased by manufacturers. Only a few states have enacted such legislation, and because of the interstate nature of the transactions, there have been times when vehicles have been moved from a state that has branding and retitled in a state that does not have branding. The "clean" title can then be used to avoid the brand when the vehicle is ultimately resold. This highlights the need for a uniform nationwide system in this area.

The current patchwork of legislation cannot guarantee that the vehicle's history will travel with it. Despite the promotion of uniformity by the state attorneys general, the statutes are inconsistent from state to state. This lack of uniformity ultimately reduces the value of the information to consumers. For instance, the requirement that triggers the notice or branding requirement varies substantially. In some states, any vehicle repurchased by a manufacturer for any reason may be subject to the notice or branding statute. Other states, seeking more certainty in the nature of the trigger provision and hoping to avoid chilling manufacturers' goodwill efforts, have limited the notice requirement to those vehicles subject to adjudicated repurchase under the state lemon law.

As another example of the inconsistency, the wording on the brand or notice varies from state to state. Some states merely require the words, "manufacturer repurchase." There is no further explanation of what this means. Other states require the notice to indicate "defective vehicle." While this may put consumers on notice, it may also be misleading if a complete repair of the defect has been performed or if the vehicle was repurchased for good-will reasons and was not in any way defective.

Consumers will benefit if the current patchwork of state laws is replaced with a clear uniform standard. Some states do not have either branding or any form of notice. This, combined with the inconsistency of existing law, means that the consumer benefits of notice and branding vary considerably from state to state. More significantly, the current patchwork of provisions cannot prevent the so-called "washing" of titles when vehicles are moved from state to state. A uniform federal title branding provision, preemptive of all state efforts, would ensure that all vehicles meeting

a clearly defined standard will be branded and that the brand will stay with the vehicle.

Clear and consistent federal preemptive legislation will facilitate better compliance. Having one requirement in this area rather than thirty (or fifty) will produce consistent procedures and cost savings. These benefits ultimately mean lower consumer costs for new vehicles.

In conclusion, uniform national legislation in this area will benefit consumers and manufacturers much more than the current patchwork of state laws. Having a strong preemptive provision in S. 1232 is particularly important.

LETTER FROM JOHN H. STRANDQUIST, CAE, EXECUTIVE DIRECTOR, AMERICAN
ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS

AUGUST 18, 1993.

Senator ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC 20510-6125

DEAR SENATOR HOLLINGS: On August 2, 1993, the American Association of Motor Vehicle Administrators submitted brief comments on proposed legislation scheduled for a hearing on that date before this committee to address motor vehicle title fraud problems. At that time, we expressed our regrets that, given the brief notification which preceded the hearing, we were unable to provide testimony at the hearing, but would submit additional comments at a later time.

I would at this time offer additional comments on behalf of our members, particularly on S. 1232, which our members had not yet had an opportunity to fully review prior to the August 2nd hearing.

As noted in our previous comments, AAMVA members recognize the need for uniformity in permanently branding motor vehicle titles and records indicating that a particular vehicle has previously sustained serious damage which could affect that vehicle's safety, performance, or value. In support of this objective, AAMVA has adopted a policy encouraging all jurisdictions to brand motor vehicle titles, indicating that a vehicle is "Reconstructed", or "Rebuilt Salvage", and to carry forward such brands for out-of-state vehicles being retitled in other states.

Of the three bills under consideration by this Committee, AAMVA believes that S. 431 establishes the best framework for addressing problems associated with permanently branding seriously damaged motor vehicles, with the least disruption to current administrative procedures.

I would again emphasize the fact that while AAMVA members have raised concerns that the time frame set for implementing procedures required by S. 431 are unrealistic and should be extended to one year or more, and that federal funding should be provided to help states comply with these new requirements, administrators believe that requirements imposed by S. 485 would be far more costly and burdensome.

The new requirements established by S. 485 would also necessitate extensive reformatting of nearly all states' certificates of title and vehicle information systems to include vehicle damage disclosure diagrams. This would not only impose additional costs on the state, but would also pose serious technical problems for states moving toward "paper-less" vehicle title and record systems. Such systems currently being developed are expected to have a direct impact in reducing auto theft.

One additional concern motor vehicle administrators have with S. 485 and S. 1232, which should be noted, is the requirement that the U.S. Secretary of Transportation establish Federal requirements for the content of motor vehicle titles. While motor vehicle administrators recognize the need for uniformity in motor vehicle title documents, AAMVA has already taken the lead in establishing uniform title standards, which have already been adopted by several jurisdictions. Other jurisdictions are expected to adopt these standards as existing supplies of title documents are exhausted. Accordingly, AAMVA opposes the current provisions of these two bills imposing new Federal title requirements on the states.

Because of the complex nature of defining the terms for motor vehicles subject to these three bills, AAMVA believes that the legislation itself should not attempt to define what constitutes "Salvage", "Rebuilt", "Reconstructed", or "Manufacturer Buyback" vehicles, but should delegate the authority for developing precise definitions for these terms to the Secretary of Transportation, in consultation with the task force created by the Anti-Car Theft Act to review this problem.

I would add two additional brief comments concerning S. 1232 which adds Manufacturer Buyback Vehicles to those subject to title branding requirements. Although we have been unable to make a precise determination of how many vehicles may

be subject to this new branding requirement, preliminary estimates indicate that the number would not be overwhelming, and could be accommodated by motor vehicle administrators with little difficulty. The windshield sticker requirement of this bill has, however, raised numerous concerns from administrators related to cost, durability, and fraud. Administrators believe that permanent title branding and including such information in the vehicle's title record are sufficient safeguards to address consumer concerns in this area.

I hope these comments are of assistance to the Committee as it considers these bills. If the Committee has any specific questions on any of the issues raised in these comments, or on any other aspect of this complex issue, please contact either Mr. Lawrence Greenberg, Director of Vehicle Services, or Mr. David H. Hugel, Director of Government Affairs.

Sincerely,

JOHN H. STRANDQUIST, CAE,
Executive Director.

LETTER FROM THE AMERICAN INSURANCE ASSOCIATION

AUGUST 4, 1993.

The Honorable J. JAMES EXON,
U.S. Senate,
Washington, DC 20510

DEAR SENATOR EXON: On behalf of the American Insurance Association, representing over 250 property/casualty insurers which write 13.75 percent of the automobile insurance in the United States, we are pleased to indicate our support for the Committee's investigation of current problems related to auto salvage titling. We support efforts to bring more uniformity to state auto titles and procedures and carefully focused measures to assure consumers are informed if a vehicle they are considering buying has been "salvaged". These objectives can be achieved without adding significant new costs to the premiums that consumers pay for auto insurance.

The average collision claim costs \$1586, according to ISO/NAII Fast Track Data, used by insurers and regulators to determine trends in auto insurance losses. A salvage definition, or even a disclosure requirement for less than salvage vehicles which is based on a repair cost of \$2000, for example, could trigger costly procedures for the owners of millions of fully repaired vehicles and a potentially significant loss of value and concomitant increase in the cost of insurance to pay the claims for the diminished value. At the same time, consumers would receive nothing of value because many of the vehicles had minor damage and were safely and routinely repaired. This exemplifies the need to avoid any provisions on less than salvage cars and to establish a definition of salvage to trigger any requirements which turn on cost of repair exceeding the fair market value.

There are several sources for a workable definition of "salvage auto" for inclusion in this legislation. Last year, for example, the Congress passed and the President signed The Anti-Car Theft Act of 1992. We strongly supported that legislation, which includes a good definition of "salvage automobile": "any automobile which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that its fair market value plus the cost of repairing the automobile for legal operation on roads or highways would exceed the fair market value of the automobile immediately prior to the occurrence causing its damage."

Another similar definition of "salvage vehicle" exists in the Uniform Vehicle Code which provides: "Salvage vehicle" means any vehicle which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the cost of repairing the vehicle for legal operation on the highway exceeds its fair market value immediately prior to damage. The Model Salvage Certificate and Junk Vehicle Act of the Coalition to Reduce Auto Fraud and Theft defines "salvage vehicle" in a similar, but slightly different way: "Salvage vehicle" means any vehicle, other than a reconstructed or rebuilt salvage vehicle, which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the cost of repairing the vehicle for legal operation on the highway exceeds its fair market value immediately prior to damage."

Any of the three definitions provided above are much preferable to a definition which turns on percent of damage or a set dollar amount, because the percent or dollar amount standards could result in an unnecessarily large number of vehicles being specially titled and/or tagged for resale. In that event, the values of routinely repaired vehicles could be unnecessarily and artificially reduced, potentially result-

ing in higher auto insurance premiums for consumers to cover the claims for the artificial reduction in values.

Thank you for the consideration of our views.

Sincerely,

MELISSA A. WOLFORD,
Director, Federal Affairs.
DAVID F. SNYDER,
Senior Counsel.

LETTER FROM THOMAS H. HANNA, PRESIDENT AND CEO, AMERICAN AUTOMOBILE MANUFACTURERS ASSOCIATION

AUGUST 3, 1993.

The Honorable RICHARD H. BRYAN and the Honorable SLADE GORTON,
U.S. Senate,
Washington, DC 20510

DEAR SENATORS BRYAN AND GORTON: The American Automobile Manufacturers Association (AAMA) requests your support for preemptive federal legislation for "title branding" of buy-back vehicles. AAMA is the trade association for U.S. car and light truck manufacturers. Its members are Chrysler Corporation, Ford Motor Company, and General Motors Corporation.

In recent years, 33 states and the District of Columbia have enacted legislation governing vehicles repurchased by automobile manufacturers, under lemon law or other programs which require that a purchaser be provided with some type of a written disclosure statement, or that the title of a repurchased vehicle be "branded." Although these statutes vary, they typically include provisions that require a consumer to be notified or a vehicle title be branded when a vehicle has been re-acquired by a manufacturer or dealer pursuant to a state lemon law, court ordered judgment, pretrial settlement, or by an arbitration procedure. The trend for this type of state legislation appears to be increasing, as states attempt to respond to the desire for customers to have access to relevant information that will affect their purchase decisions.

As additional states enact new and different disclosure or title branding legislation, it will become increasingly difficult for manufacturers to comply with these requirements when selling vehicles in a national market. The administrative burden of complying with differing state laws that require manufacturers to provide similar information in different forms will ultimately be unworkable.

AAMA and its member companies support full and effective disclosure to the vehicle purchaser of important facts known to a seller about a vehicle's history. Uniform Federal Title Branding legislation applying to manufacturers' buy-back vehicles would provide motor vehicle manufacturers with one uniform standard and provide the greatest protection to consumers.

For national legislation to be effective, however, it is critical that it preempt conflicting state legislation. Federal preemptive legislation is particularly appropriate because, under the current system, it is possible for motor vehicle dealers or brokers to transfer vehicles to neighboring states which have not enacted disclosure requirements, thereby evading the intent of home state disclosure laws.

One clear and uniform standard, preempting the patchwork of diverse state requirements would be in the best interest of both consumers and manufacturers. Consumers would be protected and informed in all states, while at the same time manufacturers could take the measures required to comply with a single standard.

AAMA greatly appreciates this opportunity to comment on this important matter.

Sincerely,

THOMAS H. HANNA.

PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS

The American Association of Motor Vehicle Administrators is a voluntary association representing motor vehicle administrators and highway safety enforcement officials in the United States and Canada. This year, AAMVA celebrates its 60th anniversary of service to its members. Over these many years, AAMVA has played an active role in promoting highway safety, consumer awareness, and uniformity in both the United States and Canada.

Most notable among these efforts in recent years has been AAMVA's role in assisting the states in implementing the Commercial Motor Vehicle Safety Act of 1986 and the Truth in Mileage Act of 1986. In both efforts, AAMVA actively participated in the rule making process by submitting members' comments to the Department of Transportation and by conducting numerous training programs to acquaint its members with the requirements of these laws.

Just this past year, AAMVA has worked closely with staff members of the House Judiciary Committee to develop the concept of establishing a National Motor Vehicle Title information System. This system will aid in deterring auto theft and motor vehicle related consumer fraud. This concept is a key component of the Anti Car Theft Act of 1992, now Public Law 102-519.

Congress recognized that the establishment of this system provides the vehicle for transmitting title information, but does not ensure that the information being exchanged is uniform. This legislation directs the Department of Transportation to establish a task force to review problems related to the uniform titling of junk and salvage vehicles. The task force is to report to Congress and the President with appropriate recommendations for solving problems that are identified.

The Act further directed that a representative of AAMVA, as well as five state motor vehicle administrators, serve on this task force. These representatives have been appointed, and have played an active role in the first meeting of the task force held two weeks ago at the Department of Transportation. The lively debate focused on defining "salvage," "rebuilt," or "reconstructed" vehicles and emphasized the complexity of this issue. It also marked the beginning of an ongoing dialog between the diverse parties concerned with this issue. AAMVA and its members serving on this task force will continue to participate in task force meetings to identify and address the numerous motor vehicle title fraud issues.

Motor Vehicle Administrators recognize the need for uniformity in permanently branding motor vehicle titles and records indicating that a particular vehicle has previously sustained serious damage. AAMVA has a committee of state vehicle registration officials that has been reviewing this issue for the past few years, and has made recommendations for accomplishing this objective.

AAMVA regrets that the brief notice provided on the scheduling of this hearing does not provide adequate time to present testimony here today on the three bills under consideration. The following brief comments, however, are offered at this time and further detailed comments on all three bills to the Committee will be submitted in the near future.

Of the two approaches to the title branding issue proposed in S. 431 and S. 485, motor vehicle administrators generally favor the framework for addressing the problem of permanent branding established in S. 431. They believe it could be more easily implemented, at less cost and with the least disruption to current administrative procedures. Having received a copy of S. 1232 less than two weeks ago, our members have not had an opportunity to fully review and comment on this legislation.

There was concern that the time frame set for implementing these procedures was unrealistic and should be extended to one year or more. It was also thought that federal funding should be provided to help states comply with these new requirements. The general sentiment of administrators is that S. 485 would be considerably more costly. It would require extensive reformatting of nearly all states' certificates of title and vehicle information systems to include vehicle damage disclosure diagrams. It should also be noted that adding a diagram to vehicle titles and information systems would pose serious technical problems for states moving toward "paperless" vehicle title and record systems. These systems are expected to have a direct impact in reducing auto theft.

Another factor for motor vehicle administrators favoring the S. 431 approach to addressing the title fraud problem is the bill's recognition that the many complex issues affecting this problem cannot be adequately addressed in legislation. This bill directs the Secretary of Transportation to consult with the task force reviewing this problem before promulgating regulations to implement this law. As a member of the task force, AAMVA believes this to be a prudent approach in determining the manner in which states signify that a vehicle has previously sustained major damage.

As previously stated, AAMVA regrets that it could not testify at this hearing, but will submit more detailed comments on these three bills in the near future. In the mean time, if you have any questions, please contact either Mr. Lawrence Greenberg, Director of Vehicle Services, or Mr. David H. Hugel, Director of Government Affairs.



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